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DER
OFFICIELLEN ACTENSTÜCKE

ZUR GESCHICHTE DER GEGENWART.

BEGRÜNDET
VON
AEGIDI UND KLAUHOLD.

IN FORTLAUFENDEN MONATLICHEN HEFTEN

HERAUSGEGEBEN
VON
H. VON KREMER-AUENRODE UND PH. HIRSCH.

BAND XXV.

ERSTES BIS DRITTES HEFT.





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Nr. 5000.

DEUTSCHLAND und **FRANKREICH.** — Konvention betreffend die vollständige Zahlung der Kriegskosten-Entschädigung und die gänzliche Räumung des französischen Territoriums. Vom 15. März 1873.[1])

[Französischer Text]

CONVENTION

relative au paiement complet de l'indemnité de guerre et à l'entière évacuation du territoire français.

Nr. 5000. Deutschland und Frankreich. 15. März 1873.

Voulant régler définitivement le paiement complet de l'indemnité de guerre stipulée par les traités de paix du 26 février et 10 mai 1871, ainsi que l'évacuation du territoire français qui en doit être la suite, les soussignés, le prince Otto de Bismarck, chancelier de l'Empire Germanique, muni des pouvoirs de Sa Majesté l'Empereur d'Allemagne, Roi de Prusse, et M. le vicomte Anne-Armand-Elie de Gontaut-Biron, membre de l'Assemblée nationale, ambassadeur de France près sa Majesté l'Empereur d'Allemagne, muni des pouvoirs de M. le Président de la République Française, sont convenus de ce qui suit:

Article I. La somme de trois milliards ayant été acquittée sur les cinq milliards de l'indemnité de guerre stipulée par le traité de paix du 10 mai 1871, et celle de quinze cents millions restant seule à solder sur les deux derniers milliards, la France s'engage à payer d'ici au 10 mai 1873, les 500 millions restant dus sur le quatrième milliard échéant seulement au 1er mars 1874, en vertu de l'article 1er de la convention du 29 juin 1872. Les paiements partiels ne seront pas de moins de 100 millions, ils devront être annoncés au gouvernement Allemand au moins un mois avant le verse-

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[1]) Vgl. Staats-Archiv Bd. XX. Nr. 4443, Bd. XXI Nr. 4616 und Bd. XXII Nr. 4635.

Nr. 5000. Deutschland und Frankreich. 15. März 1873.

ment. || Le milliard de francs échéant, en vertu de la susdite convention, le 1er mars 1875 sera payé par la France en quatre termes, chacun de 250 millions de francs, les 5 juin, 5 juillet, 4 août et 5 septembre 1873. En même temps que le paiement du dernier terme, la France acquittera entre les mains du gouvernement Allemand les intérêts échus à partir du 2 mars 1873.

Art. II. Les dispositions du 3e alinéa de l'article 7 du traité de paix du 10 mai 1871 ainsi que celles des protocoles séparés du 12 octobre 1871, demeurent applicables pour tous les paiements qui auront lieu en vertu de l'article précédent.

Art. III. Sa Majesté l'Empereur d'Allemagne, Roi de Prusse, s'engage à donner à ses troupes les ordres nécessaires pour que l'arrondissement de Belfort et les quatre départements des Ardennes, des Vosges, de Meurthe-et-Moselle et de la Meuse, à l'exception de la place de Verdun avec un rayon de trois kilomètres autour de la place, soient évacués complétement dans un délai de quatre semaines à partir du 5 juillet. || La place de Verdun et le rayon susindiqué seront évacués dans un délai de quinze jours, a partir du 5 septembre 1873. || Jusqu'à cette dernière évacuation, Sa Majesté l'Empereur d'Allemagne, Roi de Prusse, aura le droit d'user de la route de Metz à Verdun comme route militaire, et de tenir occupées à cet effet pour le service d'étape les deux villes de Conflans et d'Etain, qui auront chacune une garnison d'un demi-bataillon. Les autorités militaires conserveront à Verdun et le long de la route d'étape les droits qu'elles ont exercés jusqu'ici dans les territoires occupés. || Il est entendu que les postes d'étape seront evacués à la date fixée pour l'évacuation de Verdun.

Art. IV. La France supporte les frais d'entretien des troupes Allemandes cantonnées dans l'arrondissement de Belfort et dans les départements des Vosges, des Ardennes, de Meurthe-Moselle et de la Meuse jusqu'au jour de la complète évacuation de ces départements, ainsi que ceux de l'entretien des troupes cantonnées à Verdun et dans les deux postes d'étape jusqu'à la complète évacuation de ces dernières localités. Le nombre des troupes qui occupent Verdun n'excédera pas de plus de mille hommes le chiffre de la garnison qui s'y trouve à la date de la signature du présent traité.

Art. V. Jusqu'à l'évacuation de Verdun l'arrondissement de Belfort et les départements désignés dans l'article 3 seront, après leur évacuation par les troupes Allemandes, déclarés neutres sous le rapport militaire et ne devront pas recevoir d'autres troupes que les garnisons qui seront nécessaires pour le maintien de l'ordre. || La France n'y élèvera pas de fortifications nouvelles et n'agrandira pas les fortifications déja existantes. || Dans les départements occupés par les troupes Allemandes, ainsi que dans l'arrondissement de Belfort, S. M. l'Empereur d'Allemagne, Roi de Prusse, ne fera élever aucun autre ouvrage de fortification que ceux qui existent actuellement.

Art. VI. En cas de non-exécution des engagements pris dans la présente Convention, Sa Majesté l'Empereur d'Allemagne, Roi de Prusse, se réserve le droit de réoccuper ou de ne pas évacuer les départements et places qui y sont désignés. || En foi de quoi les plénipotentiaires respectifs ont signé au présent acte et y ont apposé le cachet de leurs armes. || Fait à Berlin, le 15 mars 1873.

[Signatures.]

Die vorstehende Konvention ist ratifizirt worden und die Auswechslung der Ratifikations-Urkunden hat am 22. März 1873 zu Berlin stattgefunden.

[Amtliche Uebersetzung.]

In der Absicht, die vollständige Zahlung der durch die Friedensverträge vom 26. Februar und 10. Mai 1871 festgesetzten Kriegskosten-Entschädigung, sowie die davon abhängige Räumung des französischen Gebiets endgültig zu regeln, sind die Unterzeichneten:

der Fürst Otto von Bismarck, Kanzler des Deutschen Reichs, bevollmächtigt von Sr. Majestät dem Deutschen Kaiser und König von Preussen, und

der Herr Vicomte Anne Armand Elie de Gontaut-Biron, Mitglied der Nationalversammlung, Botschafter Frankreichs bei Sr. Majestät dem Deutschen Kaiser, bevollmächtigt von dem Herrn Präsidenten der französischen Republik,

über Folgendes übereingekommen:

Art. I. Nachdem auf die im Friedensvertrage vom 10. Mai 1871 festgesetzte Kriegskostenentschädigung von fünf Milliarden der Betrag von drei Milliarden gezahlt und nur noch ein Betrag von fünfzehn hundert Millionen auf die zwei letzten Milliarden rückständig ist, verpflichtet sich Frankreich von jetzt ab bis zum 10. Mai 1873 diejenigen 500 Millionen zu zahlen, welche auf die nach Art. I der Konvention vom 29. Juni 1872 erst am 1. März 1874 fällige vierte Milliarde noch schuldig sind. — Die einzelnen Theilzahlungen werden nicht unter 100 Millionen Franken betragen und der deutschen Regierung mindestens einen Monat vor der Einzahlung angezeigt werden. || Die nach der angeführten Konvention am 1. März 1875 fällige Milliarde Franken wird Frankreich in vier Theilzahlungen von 250 Millionen Franken und zwar am 5. Juni, 5. Juli, 5. August und 5. September 1873 zahlen. Gleichzeitig mit der letzten Theilzahlung wird Frankreich die vom 2. März 1873 ab erwachsenen Zinsen an die deutsche Regierung entrichten.

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Art. II. Die im dritten Alinea des siebenten Artikels des Friedensvertrages vom 10. Mai 1871 und in den Separat-Protokollen vom 12. Oktober 1871 getroffenen Verabredungen finden auf alle nach Massgabe des vorstehenden Artikels zu leistenden Zahlungen Anwendung.

Art. III. Se. Majestät der Deutsche Kaiser, König von Preussen, verpflichtet Sich, den deutschen Truppen die nöthigen Befehle zu ertheilen, das Arrondissement Belfort und die vier Departements der Ardennen, der Vogesen, der Meurthe-Mosel und der Maas, mit Ausnahme der Festung Verdun und eines Bezirks von 3 Kilometern um diese Festung innerhalb vier Wochen, vom 5. Juli an gerechnet, vollständig zu räumen. ‖ Die Festung Verdun und der vorgedachte Bezirk werden innerhalb vierzehn Tagen, vom 5. September 1873 an gerechnet, geräumt werden. ‖ Bis zu dieser letzten Räumung steht Sr. Majestät dem Deutschen Kaiser, König von Preussen, das Recht zu, die Strasse von Metz nach Verdun als Etappenstrasse zu benutzen und zu diesem Zwecke die beiden Städte Conflans und Etain für den Etappendienst mit einer Garnison von je einem halben Bataillon besetzt zu halten. Den Militärbehörden verbleiben in Verdun und auf der Etappenstrasse die Rechte, welche sie bisher in dem okkupirten Gebiete ausgeübt haben. ‖ Man ist darüber einverstanden, dass die Etappenorte an dem, für die Räumung von Verdun festgesetzten Termin werden geräumt werden.

Art. IV. Frankreich trägt die Kosten für den Unterhalt der in dem Arrondissement Belfort und den Departements der Vogesen, der Ardennen, der Meurthe-Mosel und der Maas dislozirten deutschen Truppen bis zum Tage der vollständigen Räumung dieser Departements und für den Unterhalt der in Verdun und den beiden Etappenorten dislozirten Truppen bis zur vollständigen Räumung dieser letzteren Oertlichkeiten. Die Besatzung von Verdun soll die Stärke der, am Tage der Unterzeichnung des gegenwärtigen Vertrages daselbst befindlichen Garnison um nicht mehr als 1000 Mann übersteigen.

Art. V. Bis zur Räumung von Verdun werden das Arrondissement Belfort und die im Art. 3 bezeichneten Departements nach ihrer Räumung von den deutschen Truppen in militärischer Beziehung für neutral erklärt und es werden dahin keine anderen Truppen ausser den zur Aufrechthaltung der Ordnung nothwendigen Garnisonen verlegt. ‖ Frankreich wird daselbst keine neuen Fortifikationen anlegen und die vorhandenen nicht verstärken. ‖ Se. Majestät der Deutsche Kaiser, König von Preussen, wird in den von den deutschen Truppen besetzten Departements, sowie im Arrondissement Belfort keine anderen Befestigungen errichten lassen, als jetzt vorhanden sind.

Art. VI. Se. Majestät der Deutsche Kaiser, König von Preussen, behält sich das Recht vor, die in der gegenwärtigen Uebereinkunft bezeichneten Departements und Plätze in dem Falle wieder zu besetzen, oder nicht zu räumen, wenn die in derselben eingegangenen Verpflichtungen nicht erfüllt

werden sollten. || Des zu Urkund haben die beiderseitigen Bevollmächtigten den gegenwärtigen Akt unterzeichnet und untersiegelt. || Geschehen Berlin, den 15. März 1873.

Nr. 5000. Deutschland und Frankreich. 15. März 1873.

[Unterschriften.]

Alabama-Frage*).

Nr. 5001.

GROSSBRITANNIEN. — Min. d. Ausw. (Earl Granville) an den Ges. d. Ver. Staaten in London (General Schenck). — Zurückweisung der im „Case of the United States" geltend gemachten indirecten Ansprüche.

Foreign Office, February 3, 1872.

Nr. 5001. Grossbritannien. 3. Febr. 1872.

Sir, Her Majesty's Government have had under their consideration the Case presented on behalf of the Government of the United States to the Tribunal of Arbitration at Geneva, of which a copy had been presented to Her Majesty's Agent. || I will not allude in this letter to portions of the American Case which are comparatively of smaller importance, but Her Majesty's Government are of opinion that it will be in accordance with their desire that no obstacle should be interposed to the prosecution of the Arbitration, and that it will be more frank and friendly towards the Government of the United States, to state at once their views respecting certain claims of an enormous and indefinite amount which appear to have been put forward as matters to be referred to Arbitration. || Her Majesty's Government hold that it is not within the province of the Tribunal of Arbitration at Geneva to

*) Im Anschluss an den in Bd. XXII unter Nr. 4625 mitgetheilten „American Case" lassen wir hier zunächst die diplomatische Correspondenz zwischen England und den Vereinigten Staaten folgen, welche sich an die von letzteren darin erhobenen Ansprüche wegen indirecter Verluste knüpfte, und darauf die weiteren Verhandlungen vor dem Genfer Schiedsgericht. Diese Verhandlungen können aber ihres ausserordentlichen Umfangs wegen nur sehr auszugsweise mitgetheilt werden, und wir beschränken uns daher auf Wiedergabe des Wesentlichsten aus dem „British Case" und den beiderseitigen „Counter-Cases", wogegen wir sowohl die beiderseitigen schriftlichen „Arguments", wie die weiteren Plaidoyers der Anwälte, als welche auf Englischer Seite Sir Roundell Palmer, auf Amerikanischer Seite C. Cushing, W. M. Evarts und M. R. Waite fungirten, mit Stillschweigen übergehen müssen.

Anm. der Red.

Nr. 5001. Gross-britannien. 3. Febr. 1872.

decide upon the claims for indirect losses and injuries put forward in the Case of the United States including the loss in the transfer of the American commercial marine to the British flag, the enhanced payments of insurance, and the prolongation of the war, and the addition of a large sum to the cost of the war and suppression of the rebellion. ‖ I have stated above the importance which Her Majesty's Government attach to the prosecution of this Arbitration. ‖ The primary object of the Governments on both sides was the firm establishment of amicable relations between two countries which have so many and such peculiar reasons to be on friendly terms, and the satisfaction with which the announcement of the Treaty was received by both nations showed the strength of this feeling. ‖ But there is another object to which Her Majesty's Government believe the Government of the United States attach the same value as they do themselves, viz., to give an example to the world how two great nations can settle matters in dispute by referring them to an impartial Tribunal. ‖ Her Majesty's Government on their part feel confident that the Government of the United States are also equally anxious with themselves that the amicable settlement which was stated in the Treaty of Washington[1]) to have been the object of that instrument, may be attained, and an example so full of good promise for the future should not be lost to the civilized world. ‖ I have, etc.

Granville.

Nr. 5002.

VEREINIGTE STAATEN von AMERICA. — Staatssecretär d. Ausw. (Mr. Hamilton Fish) an den Gesandten in London. — Aufrechthaltung der indirecten Ansprüche.

Department of State, Washington, February 27, 1872.

Nr. 5002. Ver. Staaten. 27. Febr. 1872.

Sir, I have laid the note from Earl Granville, addressed to you, bearing date the 3rd February instant, before the President, who directs me to say that he sincerely desires to promote that firm and abiding friendship between the two nations to which the note so happily refers. ‖ It was under the inspiration of such sentiments that he accepted the invitation of Her Majesty's Government for the establishment of a Joint High Commission to treat and discuss the mode of settling certain questions referred to therein, and suggested on his own part that the proposed Commission should also have authority to consider the removal of the differences which arose during the rebellion in the United States, growing out of the acts committed by the

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[1]) S. Staats-Archiv Bd. XXI. Nr. 4497.

Nr. 5002.
Ver. Staaten.
27. Febr. 1872.

vessels which have given rise to the claims generically known as the "Alabama Claims". || It was his earnest hope that the deliberations of the Commission would result in an acceptance by Her Majesty's Government of the proposition, submitted by his direction, that a gross sum be agreed upon and paid to the United States, as an amicable settlement of all claims, of every description, arising out of such differences, instead of the lengthened controversy and litigation which he foresaw must attend any plan of arbitration. He was the more solicitous that such an amicable settlement, without the intervention of third parties, should be adopted, because he feared that so thorough and comprehensive a presentation before the Tribunal of Arbitration of the matters of law and of fact on which the claims of this country rest, as it would be his duty to cause to be made, might for the moment revive past excitements and arouse unnecessary apprehensions, if not imperil those ties of international kindness and good-will he so much desires to strengthen and make perpetual. || The regret which he felt for the rejection by Her Majesty's Commissioners of the proposition for an amicable settlement is revived with great force by the necessity of this correspondence. || The proposition for a Joint High Commission, which was made by Her Majesty's Government, would not have received the approbation of the President had he supposed it was not to comprehend a consideration and adjustment of all the differences growing out of the acts of the cruizers, nor could he have given his sanction to the Treaty had it been suggested to him, or had he believed that any class of the claims which had been presented by this Government were excluded by the terms of submission from presentation on the part of this Government to the Tribunal of Arbitration. It was, in his appreciation, the chief merit of the mode of adjustment adopted by the Commission, that it was on both sides a frank, full, and unreserved surrender to impartial arbitrament, under the rules therein prescribed, of everything that had created such differences. || Whatever degree of importance might here or there be attached to any of these complaints, the President desired and intended, as had the American Commissioners, that all, of every form and character, should be laid before the Tribunal for its final and absolute disposition, either by recognition and settlement, or by rejection, in order that in the future the harmony of personal and political intercourse between the two countries might never again be disturbed by any possible phase of the controversy. || In his opinion, since entry upon a thorough trial of the issues which divide the two Governments could not be avoided, the claims for national or indirect losses (referred to in the note of Earl Granville), as they are put forward by this Government, involve questions of public law which the interest of both Governments requires should be definitely settled. || Therefore it is with unfeigned surprise and sincere regret that the President has received the intimation conveyed in Earl Granville's note, that Her Majesty's Government hold that it is not within the province of the Tribunal

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of Arbitration to decide upon certain claims for indirect losses and injuries. His Lordship, however, does not assign any reason for the opinion that losses and injuries with respect to which there has been no concealment — which were presented to the British negotiators at the opening of the discussion in precisely the same manner as they are put forward in the "Case", not as claims for which a specific demand was made, but as losses and injuries consequent upon the acts complained of, and necessarily to be taken into equitable consideration in a final settlement of all differences between the two countries — which remained unchallenged through the entire negotiations, and not relinquished in the Treaty, but covered by one of its alternatives, are not within the jurisdiction of the Arbitrators. || Unadvised as to the reasoning which has brought Her Majesty's Government to the opinion stated by Lord Granville, the President is unable to adopt it, but being convinced of the justice of his views, that the Treaty contemplated the settlement of all the claims of the United States, is of the opinion that he could not abandon them except after a fair decision by an impartial arbitration. He seeks no meaning in the Treaty which is not patent on its face; he advances no pretensions at Geneva which were not put forth pending the negotiations at Washington. || This Government knows not where to find the meaning or the intent of the Treaty unless within the Treaty itself. || The object of the Treaty, as declared in its preamble, was "to provide for an amicable settlement of all causes of difference between the two countries"; but the Treaty is not, of itself, the settlement, — it is an agreement between the Governments as to the mode of reaching a settlement, and its Article XI engages the Contracting Parties to consider the result of the arbitration as a full, perfect, and final settlement of all the claims. Until that be reached, no proffer of withholding an estimate of the indirect losses, dependent on the hope of an amicable settlement, can be claimed as a waiver or an estoppel. || The first Article recites that differences have arisen between the two Governments, and still exist, and provides, "in order to remove and adjust all complaints and claims on the part of the United States, that all the claims growing out of acts committed by the aforesaid vessels, and generically known as the 'Alabama Claims', "be referred to a Tribunal of Arbitration, to be composed as therein provided. There is no limitation or restriction to any part or description of the claims. All the claims growing out of certain acts, and generically known as the "Alabama Claims", were referred. What they were, is a question of fact and of history. Which of them are well founded is a question for the Tribunal of Arbitration. || What are called the indirect losses and claims are not now put forward for the first time. For years they have been prominently and historically part of the "Alabama Claims". || It would be superfluous to quote, or perhaps even to refer to, particular passages in the published instructions of this Government to their Minister to Great Britain, in the notes of that Minister to

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Her Majesty's Principal Secretary of State for Foreign Affairs, or in other public papers, to show that the expectation of this Government has, from the beginning of the acts which gave rise to the "Alabama Claims", been that the British Government would indemnify the United States. Incidental or consequential damages were often mentioned as included in the accountability. || In the progress of the acts which gave rise to the claims, high British authority was not wanting to warn Her Majesty's Government in the House of Commons that "they had been inflicting an amount of damage on that country (the United States) greater than would be produced by many ordinary wars", and to indicate, as part of that damage, the losses to whose presentation exception is now taken. || Public men in both countries discussed them, while the public press on the one side and on the other advanced and combatted them with an earnestness and warmth that brought them into a prominence beyond the direct losses and injuries sustained by individuals. A detailed statement of their claims, enumerating and setting forth the indirect losses, precisely as they are advanced in the Case, was submitted by the American negotiators to the Joint High Commission on the first discussion of the claims on the 8th day of March, and appears in the Protocol approved on the 4th day of May. || Her Majesty's Government therefore, cannot, in the absence of any specific exclusion of these damages by the Treaty, be said to be taken unawares by their presentation to the Tribunal, and the President was not at liberty to regard as withdrawn or settled any of the claims enumerated in a Statement prepared and approved by the Joint High Commission after their discussions were closed, and within four days of the signing of a Treaty which declares that the differences which had arisen with respect to the "Alabama Claims" still exist. Appearing thus, from whatever cause, not to have been eliminated from the enumerated claims of the United States, the President had not the power of his own accord to withhold them from the Case to be presented to the Tribunal of Arbitration; but in frankness and in sincerity of purpose to remove, in the spirit of the Treaty, all causes of difference between the two Governments, he has set them forth before the Geneva Tribunal, content to accept any award that the Tribunal may think fit to make on their account. || It is within your personal knowledge that this Government has never expected or desired any unreasonable pecuniary compensation on their account, and has never entertained the visionary thought of such an extravagant measure of damages as finds expression in the excited language of the British Press, and seems most unaccountably to have taken possession of the minds of some even of the Statesmen of Great Britain. || A Mixed Commission is now in session in this city, under the Treaty, to which are referred all claims of citizens or subjects of either Powers (other than "Alabama claims") which arose out of acts committed during a specified period. || In the correspondence which preceded the agreement for the meeting of the Joint High Commission which negotiated the

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Treaty, language was purposely agreed upon and used to express the idea which the Representatives of the two Governments entertained, that no claim founded on contract, and especially no claim on account of the Rebel or Confederate cotton debt, was to be presented. Similar language, and for the same avowed and admitted purpose, was used in the Treaty. || Among other claims of an unexpected character presented by the agent of the British Government, there was one for a part of the Confederate debt which is understood to be held in Great Britain to the extent of many millions. Immediately on its presentation the United States remonstrated and requested the British Government to instruct their agent to withdraw that claim. Their remonstrance was unheeded; their request was not answered. If any instruction was given this Government was not informed thereof, and it failed to be observed; and the claim was pressed to argument. The United States demurred before the Commission to its jurisdiction over claims of that description, and the decision of the Commission disposed of the case adverse to the claimant. || The attitude of the two Governments is now reversed, with the difference in favour of the United States, that there was no question raised as to the understanding of both Governments at the date of the Treaty, with reference to the exclusion of claims of the character then presented. || The United States seek not to be the judges in their own case. || The course which they pursued afforded a happy solution to what might have been a question of embarrassment. || They desire to maintain the jurisdiction of the Tribunal of Arbitration over all the unsettled claims, in order that being judicially decided, and the questions of law involved therein being adjudicated, all questions connected with or arising out of the "Alabama claims", or "growing out of the acts" of the cruisers, may be for ever removed from the possibility of disturbing the perfect harmony of relations between the two countries. The President regrets that there should be any difference of opinion between the two Governments on any question connected with the Treaty. || He indulges, however, the earnest hope that the disposition which has been equally manifested by both Governments to remove all causes of difference between them will bring them to an agreement upon the incidental question which has arisen, and will allow no obstacle to deprive the world of the example of advanced civilization presented by two powerful States, exhibiting the supremacy of law and of reason over passions, and deferring their own judgments to the calm interpretation of a disinterested and discriminating Tribunal. || I am, etc.

Hamilton Fish.

Nr. 5003.

GROSSBRITANNIEN. — Min. d. Ausw. an den Gesandten der Ver. Staaten in London. — Begründung der Zurückweisung.

Foreign Office, March 20, 1872.

Nr. 5003. Gross-britannien. 20. März 1872.

Sir, I have laid before my colleagues Mr. Fish's despatch of the 27th ultimo, of which, at my request, and authorized by your Government, you gave me a copy on the 14th instant. || Her Majesty's Government recognize with pleasure the assurances of the President that he sincerely desires to promote a firm and abiding friendship between the two nations; and, animated by the same spirit, they gladly avail themselves of the invitation which your Government appear to have given, that they should state the reasons which induced them to make the declaration contained in my note to you of the 3rd ultimo, and which I then purposely omitted, in the hope of obtaining, without any controversial discussion, the assent of the Government of the United States. || Mr. Fish says, "What are called the indirect losses and claims are not now put forward for the first time. For years they have been prominently and historically part of the 'Alabama claims'. It would be superfluous to quote, or perhaps even to refer to, particular passages in the published instructions of this Government to their Minister to Great Britain, in the notes of that Minister to Her Majesty's Principal Secretary of State for Foreign Affairs, or in other public papers, to show that the expectation of this Government has, from the beginning of the acts which gave rise to the 'Alabama claims', been that the British Government would indemnify the United States. Incidental or consequential damages were often mentioned as included in the accountability." This assertion does not appear to me accurately to represent the facts as they are shown in the correspondence between the two Governments. It is true that in some of the earlier letters of Mr. Adams vague suggestions were made as to possible liabilities of this country extending beyond the direct claims of American citizens for specific losses arising from the capture of their vessels by the Alabama, Florida, Shenandoah, and Georgia; but no claims were ever defined or formulated, and certainly none were ever described by the phrase "Alabama claims" except these direct claims of American citizens. || No mention of any claim for national or indirect losses had been made during the negotiation commencing with Mr. Seward's despatch to Mr. Adams, dated the 27th of August, 1866, and ending with the signature of the Convention of the 10th of November, 1868, by Lord Stanley and Mr. Reverdy Johnson, by the IVth Article of which power was given to Commissioners "to adjudicate upon the class of claims referred to in the official correspondence between the two Governments as the 'Alabama claims'." || The first subsequent mention of any claim for national losses was in a communication, unauthorized by his Government, made by

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Mr. Reverdy Johnson, in March 1869, to Lord Clarendon, in which he suggested that the terms of the Convention signed by him with Lord Clarendon, on the 14th of January, which comprised a reference to a Mixed Commission of the "Alabama claims", should be enlarged so as to include all claims on the part of either Government upon the other, an essential condition of the proposal being, that in câse a claim was set up by the United States, founded on the recognition of the Confederate States as belligerents, it should be open to the British Government to advance claims on their part such as a claim for injury to British interests by the assertion and exercise of belligerent rights by the United States upon British commerce. || Lord Clarendon at once declined to entertain this suggestion. || In Mr. Fish's despatch of the 25th of September, 1869, the Government of the United States intimated that they considered there might be grounds for some claims of a larger and more public nature, though they purposely abstained at that time from making them; but the grounds indicated were not limited to the acts of the Alabama and other similar vessels, or to any mere consequences of such acts, nor were these public claims then described or referred to in any manner as "Alabama claims". That expression the "Alabama claims", which first occurs in a letter from Mr. Seward to Sir F. Bruce of the 12th of January, 1867, had always been used in the correspondence between the two Governments to describe the claims of American citizens on account of their own direct losses by the depredations of the Alabama and other similar vessels, and had never been employed to describe, or been treated as comprehending, any public or national claims whatever of the Government of the United States. || Down, therefore, to the time, when Her Majesty's Government proposed the appointment of a Joint High Commission to settle the Fishery Question and all other questions affecting the relations of the United States towards Her Majesty's possessions in North America, no actual claim against Her Majesty's Government had been formulated or notified on the part of the United States, except for the capture or destruction of property of individual citizens of the United States by the Alabama and other similar vessels. || When Her Majesty's Government consented, at the request of the Government of the United States, that the "Alabama claims" should be dealt with by the High Commission, it was in the full confidence that the phrase "Alabama claims" was used by the United States' Government in the same sense as it had been used throughout the previous correspondence and in the Conventions signed by Lord Stanley and Lord Clarendon. || National claims of an indirect character, such as those referred to in Mr. Fish's despatch, could not be comprehended under the term "claims generically known as the Alabama claims". The possibility of admitting as a subject of negotiation any claim for indirect national losses has never been entertained in this country; and it was therefore without the slightest doubt as to such claims being inadmissible that the British High Commissioners were appointed and proceeded to

Washington. || At a meeting of the British and United States' High Commissioners on the 8th of March, the latter, after a general statement of the claims of the United States, proceeded to say that, in the hopes of an amicable settlement, no estimate was made of indirect losses, without prejudice, however, to the right of indemnification on their account, in the event of no such settlement being made; and they afterwards proposed, by direction of the President, that "the Joint High Commission should agree upon a sum which should be paid by Great Britain to the United States, in satisfaction of all the claims and the interest thereon."[1]) || Mr. Fish says that the President earnestly hoped that the deliberations of the Commission would have resulted in an acceptance by Her Majesty's Government of this proposition. || Her Majesty's Government cannot understand upon what this hope was founded. || The position which the Government of this country have maintained throughout all the negotiations has been that they were guilty of no negligence in respect of the escape of the Alabama and the other vessels, and have therefore incurred no liability for any payment, and they still maintain this position. || The only ground on which Her Majesty's Government could be asked to pay any sum would have been an admission on their part that there had been such negligence as rendered them justly liable to pay a sum in compensation. This would have been an absolute surrender of the position which has always been held by this country, and a confession, which never could have been expected from them, that they had been guilty of negligence. Her Majesty's High Commissioners, therefore, could only declare at once that a proposal of an "amicable settlement" in this particular form could not be entertained. || Her Majesty's High Commissioners, on the part of this country, immediately made a counter-proposal, namely, the proposal of arbitration, and this proposal, after being to a certain extent modified on the suggestion of the United States' High Commissioners, was accepted by them. || The modification suggested by the United States' High Commissioners, and accepted by those of Great Britain, was a concession of no slight importance on the part of this country, namely, that the principles which should govern the Arbitrators in the consideration of the facts should be first agreed upon, and this concession was very materially enhanced when, in order to strengthen the friendly relations between the two countries and make satisfactory provision for the future, they further agreed that these principles should be those contained in the Rules in the VIth Article of the Treaty; for they thus accepted the retroactive effect of rules to which, nevertheless, they felt bound to declare that they could not assent as a statement of principles of international law in force at the time when the "Alabama claims" arose. || The friendly spirit of Her Majesty's Government was further shown by their authorizing

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[1]) S. XXXVI. Protocoll vom 4. Mai 1871. — Staats-Archiv Bd. XXI. Nr. 4496 p. 66 oben.

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Her Majesty's High Commissioners to express the regret felt by Her Majesty's Government for the escape, under whatever circumstances, of the Alabama and the other vessels from British ports, and for the depredations committed by those vessels, and by their agreeing that this expression of regret should be formally recorded in the Treaty. || Nor did Her Majesty's Government object to the introduction of claims for the expense of the pursuit and capture of the Alabama and other vessels, notwithstanding the doubt how far those claims, though mentioned during the Conferences as direct claims, came within the proper scope of the arbitration. They acquiesced in the proposal to exclude from the negotiations their claims on behalf of Canada against the United States for injuries suffered from Fenian raids — an acquiescence which was due partly to a desire on their part to act in a spirit of conciliation, and partly to the fact, stated by Her Majesty's High Commissioners, that a portion of these claims was of a constructive and inferential character. || The importance of these concessions must not be underrated. Nor can it have been expected by the Government of the United States that concessions of this importance would have been made by this country if the United States were still to be at liberty to insist upon all the extreme demands which they had at any time suggested or brought forward. || Her Majesty's Government considered themselves justified in treating the waiver of indirect claims, in the event of an amicable settlement, proffered by the High Commissioners of the United States, as one which applied to any form of amicable settlement, and therefore comprised, in like manner, the form of amicable settlement proposed by the British High Commissioners, accepted on the part of the United States, and recognized in the preamble of the Treaty. Such a waiver was, in fact, a necessary condition of the success of the negotiation. || It was in the full belief that this waiver had been made that the British Government ratified the Treaty. || Her Majesty's Government are anxious that the considerations which made them hold this belief should be more fully explained to the Government of the United States than can be done in the form of a letter, and I have accordingly embodied them in a Memorandum [1]) which I have the honour to inclose, and which I beg may be read with, and considered as part of, my present communication. || Her Majesty's Government do not deny that it is as competent for the Government of the United States as it is for themselves to assert that their own interpretation of the Treaty is the correct one. But what Her Majesty's Government maintain is, that the natural and grammatical construction of the language used in the Treaty and Protocols is in accordance with the views which they entertain,

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[1]) Das beigegebene Memorandum zerfällt in folgende drei Theile:

I. On the waiver of claims for indirect losses contained in the 36th Protocol.

II. On the construction of the treaty.

III. On the amount of the claims for indirect losses.

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and sustains their assertion that the terms of reference to the Arbitrators are limited to direct claims, inasmuch as direct claims only have throughout the correspondence been recognized and repeatedly defined under the name of the "Alabama claims". || There are some passages in Mr. Fish's despatch in which he defends the introduction into the American Case of the claims for indirect losses and injuries, which I cannot allow to pass without more special remark. || It is stated that they are put forward in the Case not as claims for which a specific demand is made, but as losses and injuries consequent upon the acts complained of, and necessarily to be taken into equitable consideration in a final settlement of all differences between the two countries, and as not relinquished in the Treaty, but covered by one of its two alternatives. || Her Majesty's Government do not perceive what "alternative" in the Treaty can cover these claims. || If, indeed, by this language Mr. Fish is to be understood as referring to the two different modes provided by Articles VII and X of the Treaty, for arriving at the amount of the payment to be made by Great Britain in the event of any liability being established, the answer seems obvious, viz., that these alternatives are applicable only to the settlement of the amount of damages, and not to the measure of liability. || Again, Mr. Fish states that the Treaty was not an amicable settlement, but only an agreement between the Governments as to the mode of reaching a settlement, and that no proffer of withholding an estimate of indirect losses can be claimed as a waiver until the result of the arbitration is arrived at; but he overlooks the fact that the Treaty is called an amicable settlement, not merely in relation to the "Alabama claims", but as an entirety; and even in relation to the "Alabama claims" alone, it must clearly be taken that the amicable settlement which it professed to provide was arrived at from the moment when the Treaty containing the agreement to go to arbitration upon the claims was signed and ratified. If, according to Mr. Fish's view, an amicable settlement upon a reference to arbitration can only be arrived at by an adjudication of the claims, it is obvious that no waiver of any such claims could, under such circumstances, ever be made, for before the time for waiver (on this supposition) had arrived, the claims would already have been decided upon. || That Her Majesty's Government never intended to refer these claims to arbitration, and that, in ratifying the Treaty, they never contemplated their being revived in the argument before the Arbitrators, must have been obvious to you from the language used in the debate in the House of Lords on the 12th of June, on the motion for an address to the Queen, praying Her Majesty to refuse to ratify the Treaty. || On that occasion I distinctly stated this to be the understanding of Her Majesty's Government, and quoted the very Protocol of the 4th of May, to which I have referred above, as a proof that these indirect claims had "entirely disappeared". When Lord Cairns, to whose speech allusion has been made in the United States' Case, subsequently said that extravagant claims might be put in and take their

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chance, he was met with expressions of dissent. Moreover, Lord Derby, while criticizing the negotiation and the terms of the Treaty in other respects, particularized the withdrawal of indirect claims. "The only concession", he said, "of which I can see any trace upon the American side, is the withdrawal of that utterly preposterous demand that we should be held responsible for the premature recognition of the South as a belligerent Power, in company with that equally wild imagination, which, I believe, never extended beyond the minds of two or three speakers in Congress, of making us liable for all the constructive damages to trade and navigation which may be proved or supposed to have arisen from our attitude during the war." ‖ I observed that you were present in the House of Lords on that occasion, and you informed me in January that you were present during the speeches of Lord Russell and myself, and that you communicated the next day the full newspaper report of the debate to your Government. ‖ Sir S. Northcote, in the House of Commons, repeated, in other words, the substance of my remarks on the limitation of the terms of reference; and as his speech is printed in the papers on Foreign Relations recently laid before Congress, it must also have been reported to your Government. But neither on the occasion of my speech nor of his, nor when the ratifications of the Treaty were exchanged on the 17th of June, did you call my attention to the fact that a different interpretation was placed on the Treaty and Protocol by Her Majesty's Government and the Government of the United States; nor, so far as Her Majesty's Government are aware, was their interpretation, thus publicly expressed, challenged either by the Statesmen or the public press of the United States. ‖ Her Majesty's Government must therefore confess their inability to understand how the intimation contained in my note of the 3rd February last can have been received by the President with surprise. ‖ Mr. Fish urges that the claims for national indirect losses which have been put foreward on behalf of his Government involve questions of public law which the interest of both Governments requires should be definitely settled. ‖ Her Majesty's Government agree with Mr. Fish that it is for the interest of both countries that the rights and duties of neutrals upon some of the points hitherto thought open to serious controversy should be definitely settled, and had hoped that such a settlement had been secured by the Rules to which they have given their assent; but they cannot see that it would be advantageous to either country to render the obligations of neutrality so onerous as they would become if claims of this nature were to be treated as proper subjects of international arbitration. ‖ Whatever construction may be placed upon the Ist Article of the Treaty, it is impossible to sever the terms of reference therein contained from the Rules in the VIth Article; and the measure of liability under the Arbitration, therefore, will be the measure of liability incurred by any neutral State which, after acceding to these Rules, may "by any act or omission" fail to fulfil any of the duties set forth in them. ‖ The

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United States and Great Britain have bound themselves by the Treaty to observe these Rules as between themselves in future. || They have, moreover, bound themselves to bring these Rules to the knowledge of other maritime Powers, and to invite them to accede to them. Could it have been expected that those Powers would accept a proposal which might entail upon a neutral such an unlimited liability and, in some instances, might involve the ruin of a whole country? || Her Majesty's Government cannot for themselves accept such a liability, nor recommend the acceptance of it to other nations. || Are the Government and people of the United States themselves prepared to undertake the obligation of paying to an aggrieved belligerent the expenses of the prolongation of the war, and other indirect damages, if, when the United States are neutral, they can be shown to have permitted the infringement of any one, or part of any one, of the three Rules through a want of due diligence on the part of their executive officers? || To attach such tremendous consequences to an unintentional violation of neutrality — it might be by a single act of negligence — would be to strike a heavy blow at the interests of peace; for war has scarcely any consequences more formidable to a belligerent than those which might thus be incurred by a neutral; and, while war offers a chance of gain, neutrality would, if such claims as these were once admitted, present without any such compensation the risk of intolerable loss. || With respect to the disclaimer made by Mr. Fish of any expectation or wish, on the part of the United States' Government, to obtain any "unreasonable pecuniary compensation" on account of these indirect claims, I think it sufficient here to observe that, on the question of amount, the British people and Government have necessarily been obliged to look to the nature and grounds of the claims as they are stated in the Case of the United States, and have, of course, been unable to form a judgment from any other data of the expectations of those by whom the claims are advanced. If these claims could be considered as well-grounded in principle, it appears to Her Majesty's Government to be capable of demonstration that the magnitude of the damages which might be the result of their admission is enormous. The grounds of these views are more fully stated in the Third Part of the inclosed Memorandum. || Mr. Fish has appealed to the proceedings at the Washington Claims Commission in connection with the Confederate cotton claims. Her Majesty's Government must, however, observe that there is no analogy between the two cases, as, by the Treaty, the Washington Commission has power "to decide in each case whether any claim has or has not been duly made, preferred, and laid before them, either wholly, or to any and what extent, according to the true intent and meaning of the Treaty"; no similar words being used as to the powers of the Geneva Tribunal. || It is the function of the Washington Commission to decide upon a variety of general claims, not of one kind, nor limited or defined beforehand, and Her Majesty's Agent was instructed that his duty would *primâ facie* be, to present

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such claims as private individuals might tender for that purpose for acceptance or rejection by the Commission; Her Majesty's Government not intending to make themselves responsible either for the merits of the particular claims or for the arguments by which they might be supported. The jurisdiction of the Geneva Tribunal was limited to one particular class and description of claims. || The facts are as follows: — || On the 11th of November, in pursuance of the general instructions which had been given to Her Majesty's Agent, a claim upon a bond issued by the so-called Confederate States for a sum forming part of a loan called the "Cotton Loan", contracted by those States, and for the payment of which certain cotton seized by the United States was alleged to have been hypothecated by the Confederate Government, was filed at Washington; and on the 21st I learnt from you that the United States' Government objected to claims of this kind being even presented. || Some delay took place in consequence of unavoidable causes with some of which you are well acquainted. And there were others, such as the necessity not only of communicating with my colleagues but with Sir E. Thornton, and of considering how far, under the same general description, there might be included claims substantially different. The despatches from Her Majesty's Agent giving the details of the nature of the claim, and of the demurrer made to it by the United States' Agent, did not reach me until the 6th of December. I had in the meantime ascertained from Sir E. Thornton that the expression "acts committed" had been used by mutual agreement in the negotiations which preceded the appointment of the High Commission with a view to exclude claims of this class from the consideration of the High Commissioners; those words being also used in the XIIth Article of the Treaty with regard to private claims. The question was brought before the Cabinet at its next meeting on the 11th, and was finally decided on the 14th, as recorded in a minute by Mr. Gladstone. This decision was, that the Confederate cotton claims should not be presented unless in the case of bonds exchanged for cotton, which had thereby become the actual property of the claimants, and directions were given for a despatch to be sent to this effect, and on the 16th I informed you that you might write to Mr. Fish that Her Majesty's Agent would be instructed not to present any claims that did not come within the provisions of the Treaty. || Although it appears that the understanding need not necessarily have extended beyond the rejection by the Commissioners of the claims, under the XIVth Article, by which the Commissioners have power to decide whether any claim is preferred within the true intent and meaning of the Treaty (as was done with various claims under a similar Article in the claims Conventions of 1853), Her Majesty's Government acceded to the construction which the United States' Government hat put upon that understanding. Mr. Fish will observe the feeling by which Her Majesty's Government. were guided in coming to their decision on the 14th. They desired to put the most favourable

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construction upon any understanding which the United States' Government might have supposed to exist. | Information reached me the next morning by telegraph of the adjudication, which Her Majesty's Government had not expected to take place, upon the merits of the claim by the Commissioners. This required a reconsideration of the instructions, and fresh instructions were sent by the mail of the 23rd, and also by telegraph, to Sir E. Thornton to arrange with Mr. Fish that the presentation of claims which appeared to be manifestly without the terms of the Treaty should be withheld, and that when Her Majesty's Agent was of opinion that a claim belonged to a class that ought not to be presented, it would be desirable that an agreement to that effect should be made and signed by Sir E. Thornton and Mr. Fish. These instructions were communicated to Mr. Fish. || Her Majesty's Agent has since acted in accordance with the decision of the Cabinet of the 14th of December. New claims of the like character have been tendered to him by parties who were unwilling to acquiesce in the decision of the Commissioners as applicable to their own cases, but which claims, under instructions from Her Majesty's Government have not been presented. | I have now placed in your hands, for examination by the Government of the United States, a statement of the reasons which, in the opinion of Her Majesty's Government, sufficiently show that claims for indirect losses are not within the meaning of the Treaty; that they were never intended to be included by Her Majesty's Government, that this publicly declared before the ratification, when the error, if any, might have been corrected; that such claims are wholly beyond the reasonable scope of any Treaty of Arbitration whatever; and that to submit them for decision by the Tribunal would be a measure fraught with pernicious consequences to the interests of all nations, and to the future peace of the world. || I appreciate the desire substantially, if indirectly, expressed by the Government of the United States, to be advised of the reasons which have prompted the declaration made by me on behalf of Her Majesty's Government on the 3rd of February, no less than the friendly and courteous language which has been employed by the United States' Secretary of State. The present letter is intended by Her Majesty's Government, not as the commencement of a diplomatic controversy, but as an act of compliance with that most reasonable desire. They are sure that the President will be no less anxious than they are that the conduct of both Governments should conform to the true meaning and intent of the instrument they have jointly framed and signed, whether that meaning be drawn from the authoritative documents themselves, or from collateral considerations, or from both sources combined. | Entertaining themselves no doubt of the sufficiency of the grounds on which their judgment proceeds, they think it the course at once most respectfull and most friendly to the Government of the United States to submit those grounds to their impartial appreciation. Her Majesty's Government feel confident that they have laid before the Presi-

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dent ample proof that the conclusion which was announced by me on the 3rd of February, and to which I need hardly say that they adhere, cannot be shaken. || I have, etc.

Granville.

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VEREINIGTE STAATEN von AMERICA. — Staatssecretär d. Ausw. an den Gesandten in London. — Darlegung der Amerikanischen Auffassung. — Auszug.

Department of State, Washington, April 16, 1872.

Nr. 5004. Ver. Staaten. 16. April 1872.

Sir, I have given very careful attention to the note of the 20th of March, addressed to you by Earl Granville, professing to state the reasons which induced Her Majesty's Government to make the declaration contained in his previous note to you of 3rd of February — that in the opinion of Her Majesty's Government it is not within the province of the Tribunal of Arbitration at Geneva to decide upon the claims for indirect losses and injuries put forward in the Case of the United States. || His Lordship declares this statement to be made upon the invitation which this Government appears to have given. I should regret that what was intended only as a courteous avoidance of the naked presentation of a directly opposite opinion to that which had been expressed on behalf of the British Government, unsustained by any reasons, should have subjected his Lordship to the necessity of an elaborate reply. It was not the desire of this Government to invite any controversial discussion, nor have they now any wish to enter upon or continue such discussion. || Some remarks, however, appear in the note of his Lordship which seem to require a reply. || It opens with a seeming denial of the accuracy of my assertion that claims for indirect losses and injuries are not put forward for the first time in the "Case" presented by this Government to the Tribunal at Geneva; that for years they have been prominently and historically part of the "Alabama claims"; and that incidental or consequential damages were often mentioned as included in the accountability. It cannot be supposed that his Lordship intends more than to say that the claims for indirect or national losses and injuries were not "formulated" by this Government, and the amount thereof set forth in detail and as a specific demand; for he admits that, on the 20th November, 1862, within a few weeks after the "Alabama" had set out on her career of pillage and destruction, Mr. Adams suggested the liability of Great Britain for losses other than those of individual sufferers. In his note of that date to Lord Russell, Mr. Adams stated that he was instructed by his Government to "solicit redress for the *national* and private injuries already thus sustained". || On the 19 February, 1863, Mr. Seward instructed Mr. Adams that "this Government does not

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think itself bound in justice to relinquish *its* claims for redress for the injuries which have *resulted from the fitting-out and dispatch of the 'Alabama' in a British port.*" ‖ As the consequences of this fitting out began to develop themselves and their effects in encouraging the rebellion, became manifest, Mr. Adams in an interview with Lord Russell, indicated them (as described by the latter in a letter to Lord Lyons under date of 27th March, 1863), as "a manifest conspiracy in this country (Great Britain) to produce a state of exasperation in America, and thus bring on a war with Great Britain, *with a view to aid the Confederate cause*". ‖ In a note dated April 7, 1865[1]), addressed to Lord Russell, Mr. Adams, after complaining of the hostile policy, pursuant to which the cruizers were fitted out, says, "That policy, I trust, I need not point out to your Lordship, *is substantially the destruction of the whole mercantile navigation belonging to the people of the United States.*" "It may thus be fairly assumed as true that *Great Britain, as national Power, is, in point of fact, fast acquiring the entire maritime commerce of the United States.*" ‖ That Lord Russell regarded this as the foundation of a claim for damages for the transfer of the commercial marine of the United States to the flag of Great Britain is apparent in his reply to Mr. Adams under date of May 4, 1865[2]), when he says, "I can never admit that the duties of Great Britain toward the United States are to be measured by the losses which the trade and commerce of the United States may have sustained." ‖ Again on 20th May, 1865[3]), Mr. Adams, writing to Lord Russell, distinctly names *indirect* or consequential losses. His language is "that in addition to this *direct* injury the action of these British-built, manned and armed vessels has had the indirect effect of driving from the sea a large portion of the commercial marine of the United States, and to a corresponding extent enlarging that of Great Britain"; „that injuries thus received are of so grave a nature as, in reason and justice, to *constitute a valid claim for reparation and indemnification.*" In the same note he says, "The very fact of the admitted *rise in the rates of insurance on American ships* only brings us once more back to look at the original cause of all the trouble." ‖ It is difficult to imagine a more definite statement of a purpose to require indemnification. ‖ On the 14th February, 1866, after the presentation of the above recited complaints, Mr. Seward, writing to Mr. Adams, said, "There is not one member of this Government, and, so far as I know, not one citizen of the United States, who expects that this country will waive, in any case, the demand that we have heretofore made upon the British Government for the redress of wrongs committed in violation of international law." ‖ And, again, on 2nd Mai 1867, Mr. Seward writes to Mr. Adams, "As the case now

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1) S. Staatsarchiv Bd. IX Nr. 1974.
2) S. Staatsarchiv Bd. IX Nr. 1975.
3) S. Staatsarchiv Bd. IX Nr. 1976.

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stands, the injuries by which the United States are aggrieved *are not chiefly the actual losses sustained in the several depredations*, but the first unfriendly or wrongful proceeding of which they are but the consequences." ‖ His Lordship also admits the mention, by Mr. Reverdy Johnson, in March 1869, of a "claim for national losses", which Lord Clarendon, in a paper published in the British Parliamentary Papers, "North America, Nr. 1, 1870", page 18, defines as "national, indirect, or constructive claims". ‖ On 15th May, 1869, I instructed Mr. Motley that this Government, in "rejecting the recent Convention, abandons *neither its own claims* nor those of its citizens." ‖ Lord Clarendon in a despatch of 10th June, 1869, to Mr. Thornton, mentioned that Mr. Motley had assigned, among the causes which led to the rejection of the Johnson-Clarendon Treaty, that the "Convention was objected to because it embraced only the claims of individuals, and had no reference to those of the two Governments on each other." ‖ On 25th September, 1869[1]), writing to Mr. Motley, I said, "The number of ships thus directly destroyed amounts to nearly 200, and the value of the property destroyed to many millions. *Indirectly* the effect was *to increase the rate of insurance* in the United States, and *to take away from the United States its immense foreign commerce, and to transfer this to the merchant-vessels of Great-Britain.*" „*We complain of the destruction of our merchant marine by British ships, etc.*" "The President is not yet prepared to speak of the reparation which he thinks *due by the British Government for the larger account of the vast national injuries it has inflicted on the United States.*" ‖ In the same instruction I also wrote what seems pertinent to the present phase of the question between the two Governments. "When one Power demands of another the redress of alleged wrongs, and the latter entertains the idea of arbitration as the means of settling the question, it seems irrational to insist that the arbitration shall be a qualified or limited one." ‖ Lord Clarendon wrote to Mr. Thornton on the 6th November, 1869, that he was officially informed by Mr. Motley that while the President at that time abstained from pronouncing on the indemnities due for the destruction of private property, he also obstained from speaking "of the reparation which he thinks due by the British Government for the *larger account of the vast national injuries* it has inflicted on the United States." ‖ Lord Clarendon, in some "observations" on my note (Blue Book, North America, Nr. 1, 1870, p. 13 *et seq.*) dwelt at length on my allegation of national or indirect injuries, and characterized them as "*claims*", and resisted them as such; and in an instruction to Mr. Thornton, of 12th January, 1870, he recognizes the paper as relating to the "Alabama Claims". (Blue Book, North America, Nr. 1, 1870, p. 20.) ‖ It cannot be denied that these public or national claims (now called "indirect") were prominently before the Senate of the United States when the Convention

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1) S. Staatsarchiv Bd. XVIII Nr. 3967.

of 14th January, 1869, was under advisement in that body, nor that they were subsequently actively canvassed before the people of both countries, and especially by the press of Great Britain. || It is equally indisputable that, in my note to Mr. Motley of September 25, 1869, to which Lord Clarendon replied, there was presented the reparation which the President thougt "due by the British Government for the *vast national injuries* it had inflicted on the United States." || The 36th Protocol of the Joint High Commission shows that the indirect losses were distinctly presented to the notice of the British Commissioners in the very beginning of the negotiations on the subject, and that they remained unchallenged to the signing of the Treaty. || At every stage, therefore, of the proceedings, from November 1862, when Mr. Adams "solicited redress for the *national* injuries sustained", to the date of the Treaty, this Government has kept before that of Great Britain her assertion of the liability of the latter for what are now termed the "*indirect* injuries". || The President now learns for the first time, and with surprise, that Her Majesty's Government accepted his suggestion that the proposed Commission should treat for "the removal of the differences which arose during the rebellion in the United States, and which have existed since then, *growing out of the acts* committed by the several vessels which have given rise to the claims generically known as the 'Alabama claims'," in the full confidence that no claim would be made by the United States for the national losses which had been continuously presented. || It is not to be denied that "differences" had arisen between the two Governments respecting these claims, and the Treaty attests that the two Governments were desirous to provide for an amicable settlement of *all causes of difference*, and for that purpose appointed their respective Plenipotentiaries. It is thus declared, in the outset, that the agreements which are about to be formulated are not intended to be an "amicable settlement", but are intended, on the contrary, "*to provide* for a speedly settlement". The subject of the submission in a solemn Treaty will not be narrower than the declared object sought to be accomplished in the reference, and that object was declared to be the removal of all *complaints and claims*. || The Treaty also attests that the differences which had arisen *growing out of* the acts committed by the several vessels which had given rise to the claims generically known as the "Alabama claims", *still* exist, and that in order to remove and adjust *all complaints and claims*, "*all* the claims *growing out of the acts* committed by the aforesaid vessels, and *generically* known" as "the 'Alabama claims', shall be referred to a Tribunal of Arbitration". || You can bear witness that not even an intimation of the character now put forward by Earl Granville was made at any time during the deliberations of the Joint High Commission. || If Her Majesty's Commissioners were appointed, entered upon and continued the negotiations with this Government under instructions, and with the conviction that the correspondence between Sir Edward Thornton and myself did not cover, and was not intended

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to cover, "as a subject of negotiation, and claim for indirect or national losses", the withholding of such instructions and the abstaining from the expression of such conviction on their part was most unfortunate, and the absence of any dissent or remonstrance against this class of the claims, either when first formally presented to the Commissioners, or during the whole negotiation, or in the Protocols, is most remarkable. || These claims were presented to the British Commissioners as solemnly and with more definiteness of specification than were presented by them to the American Commissioners the claims for alleged injuries which the people of Canada were said to have suffered from what was known as the Fenian raids; yet while the American Commissioners formally objected to the claims for the Fenian raids, as not embraced in the scope of the correspondence which led to the formation of the Commission, and recorded in the Protocols their unwillingness to enter upon the consideration, each time that they were referred to, the British Commissioners, from the first to the last, took no exception and recorded no objection to the presentation made by the American Commissioners of the claims *generically* known as the "Alabama claims", which stand on the Protocol as a "*genus*" or class of claims comprehending several species, and among them enumerating specifically the claims for indirect losses and injuries. The positive exclusion by the Protocol of one class of claims advanced would seem to be conclusive of the non-exclusion of the other class advanced with greater definiteness and precision, but with respect to which no exception was taken and no dissent recorded. || It is difficult to reconcile the elaborate line of argument put forward by Earl Granville to show a waiver of claims for indirect losses, with the idea that, at the outset of the negotiations, Her Majesty's Government did not consider the matter of public or national injuries as the basis of an outstanding claim against Great Britain on the part of the *United States*. || If these claims had (as Lord Granville's note implies, even if it does not assert) no existence in fact, and had never been "notified" or presented, and were not within the jurisdiction of the Joint High Commission, why is so much stress laid upon their assumed relinquishment? || If, on the other hand, they had existence in fact, if they had (as the references which I have made to a correspondence extending over a long series of years establishes, I think, beyond the possibility of doubt) been frequently and persistently presented and notified to the British Government, why is not their positive exclusion from the reference to the arbitration shown? Why should an important class of claims, measured in their possibilities, according to the estimate of the British press, by fabulous amounts, be left to an *inferential* exclusion? || What interest, upon Lord Granville's theory, could Great Britain have in the proposed abandonment of such claims, or why offer offer any consideration therefor? || How can Her Majesty's Government contend at the same moment that the preliminary correspondence excluded the indirect or national losses, *and* that the possibility of admitting

such claims as a subject of negotiation had never been entertained by Great Britain, and on the other hand that they offered and considered the "amicable settlement" of the Treaty, with its expressions and its recognition of certain rules, as the consideration and the price paid for a waiver of those claims by the United States? || I should not feel justified in referring to the expressions used by Earl Granville and other eminent Members of the British Parliament in their legislative capacities, but for his own reference thereto, and for the responsibility to which his Lordship attempts to hold you for your presence at one of their sessions, and to which I shall again refer. || But the reference made by Earl Granville to the debate in the House of Lords on the 12th of June, and his own declarations on that occasion, that "they (the indirect claims) entirely *disappear*", strengthens the position of this Government that they had been presented and were recognized as part of the claims of the United States. || A disappearance certainly implies a previous appearance. || Lord Cairns, long accustomed to close judicial investigation, and the critical examination of Statutes and of Treaties, did not agree to the proposition that there had been a relinquishment of the claims; he declared that there could not be found "one single word . . . . which would prevent such claims being put in, and taking their chance under the Treaty." || If, therefore, you were present through the whole of the debate, you heard advanced in the House of Lords as well the opinion held by the United States as that now put forward in behalf of Great Britain. || It is true that Mr. Adams did not "define or formulate" claims for national losses. He did, however "notify" them to Her Majesty's Government. || During the war, these claims were continually arising and increasing, and could not then be "defined", and the time for „formulating" them would not arise until a willingness to enter upon their consideration arose. . . . .

At no time during the occurrence of the events which gave rise to the differences between the two Governments, did the United States fail to present ample and frequent notice of the nature of the indirect injuries, or of their inclusion in the accountability of Great Britain. || Lord Granville admits that Mr. Johnson proposed the national claims in March 1869. I mentioned them in my instructions to Mr. Motley 1869; and again in that of September of that year, although I made no claim or demand for either direct or indirect injuries, I did present the *vast national* injuries, so that Lord Clarendon, in his reply, manifested no difficulty in discerning that the United States did expect and would demand the consideration of national, indirect, or consequential losses. || I can therefore have no doubt whatever that the assertion in my instruction to you of 27th February, commented upon by Lord Granville, does "accurately represent the facts as they are shown in the correspondence between the two Governments." . . . .

After the positive declaration of Earl Granville, that it "never could have been expected" that Her Majesty's Government would accept the pro-

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position of payment of a gross sum in satisfaction of all our claims, it is apparent that an exposition, at this time, of the reasons which led the President to hope that the amicable settlement which he proposed, coupled with the suggestion of large pecuniary concessions on our part, would be made, will not tend to remove the differences now existing between the two Governments respecting the jurisdiction of the Geneva Tribunal. || I as deeply regret that Her Majesty's Government cannot understand upon what that hope was founded, as I deplore what now appears to have been the predetermination of Her Majesty's Government to reject every proposal which involved an admission of any liability on the part of Great Britain. || Another proposal, having no similitude to the previous one submitted by us, was made by Her Majesty's Commissioners. They accepted without objection the American statement of the subject-matter in dispute as it was made, and they proposed instead of the "amicable settlement" offered by the American Commissioners, "a mode of settlement" by arbitration—a litigation, a lawsuit, in which Great Britain should deny all liability to the United States for all the injuries complained of. After sundry modifications, their proposal was accepted by the United States, who were thus compelled to bring before the Tribunal the same presentment of their losses which they had laid before Her Majesty's Commission. The subject-matter of the submission made by the American "Case" to the Geneva Tribunal differs in no particular from that which was accepted as the statement of the American claims, without objection on the part of the British members of the Joint High Commission. || The President is now, for the first time, authentically informed that a waiver by this Government of the claims for indirect losses which were formally presented, was, in the opinion of Her Majesty's Government, also contained in this second proposal, was a necessary condition of the success of the negotiation, and that" it was in the full belief that this waiver had been made that the British Government ratified the Treaty." Such a relinquishment of a part of the claims of this Government is now made by Earl Granville the pivot and real issue of the negotiation. He appears to imply that the price paid by Her Majesty's Government to obtain that waiver was the concession referred to in his Lordship's note, and which, he says, would not have been expected by this Government "if the United States were still to be at liberty to insist upon all the extreme demands which they had at any time suggested or brought forward." || Here, again, is a clear intimation that Her Majesty's Government were not in ignorance of the character of our demands, but that they were well "*known*" and that the consideration to be paid for their waiver (whether real or imaginary) had been deliberately determined. || Is it not surprising that such "extreme demands" should bei waived on the one hand, and such "concessions" made on the other, without a word of reference or suggestion that the one was conditioned on the other? || You can bear witness that at no time during the deliberations of the Joint High Commission

was such an idea put forward by Her Majesty's Commissioners. || The Protocols are utterly silent on this subject. || That no such relinquishment was incorporated into the text of the Treaty is clear enough. || Why not, if thus deemed at the time by Her Majesty's Government the hinge and essential part of the Treaty? || What are termed the "concessions" on the part of Great Britain appear in the Treaty. If the relinquishment by the United States of a part of their claim was the equivalent therefor, why is not that set forth? || Throughout the Treaty are to be found reciprocal grants, or concessions, each accompanied by its reciprocal equivalent. || How could it happen that so important a feature of the negotiation as this alleged waiver is now represented to be, was left to inference, or to argument from intentions never expressed to the Commissioners or to the Government of the United States, until after the Treaty was signed? || The amplitude and the comprehensive force of the Ist Article (or the granting clause) of the Treaty did not escape the critical attention of Her Majesty's Commissioners; but was any effort made to limit or reduce the scope of the submission, or to exclude the indirect claims? || You were informed in my instruction of February 27 that this Government does not consider the Treaty as of itself a settlement, but as an agreement as to the mode of reaching a settlement. To that opinion the President adheres. He cannot admit that the Treaty provision for a settlement is, in substance or legal effect, the same as the "amicable settlement" spoken of in the Conference held on the 8th of March, as is set forth in the Protocol. The differences between the two stand out clear and broad. One would have closed up, at once and for ever, the long-standing controversy; the other makes necessary the interposition of friendly Governments, a prolonged, disagreeable, and expensive litigation with a powerful nation, carried on at a great distance from the seat of this Government, and under great disadvantages; and, more than all, it compels the reappearance of events and of facts for the keeping of which in lifeless obscurity the United States were willing to sacrifice much, as they indicated in their proffer to accept a gross sum in satisfaction of *all* claims. || The United States can assent to no line of argument which endeavours to transfer the waiver of claims for indirect injuries (implied from their withholding the estimate of the amount of such claims) from the rejected proposal of the American Commissioners for a settlement *à l'amiable* by the Joint High Commission, and to incorporate it, *sub silentio,* in the Arbitration proposed by the British Commissioners. || The offer of this Government to withhold any part of its demands expired and ceased to exist when the acceptance of the proposal which contained the offer was refused. It was never offered except in connection with the proposal that the Joint High Commission should agree upon a gross sum to be paid in satisfaction of all the claims, and then it was repelled. It was never again suggested from any quarter. It is impossible for Her Majesty's Government to fix upon a moment of time when there

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was an agreement of the Contracting Parties respecting such a waiver as that to which Earl Granville refers. || To the suggestion of doubt contained in the note of Lord Granville whether "it would be advantageous to either country" to treat claims of the nature of those now under discussion "as proper subjects of international arbitration", I can only reply that for all practical purposes argument upon this question is suspended, inasmuch as in our judgment Great Britain and the United States have bound themselves respectively by the Treaty to make such submission. || The first Article of that solemn instrument recites and declares that "*all* the said claims growing out of acts committed by the aforesaid vessels, and generically known as the 'Alabama claims', shall be referred to a Tribunal of Arbitration." Earl Granville admits that the foregoing are "the words in which the subject matter of the reference to arbitration agreed upon is defined." || If the Case of the United States, as presented at Geneva, contain claims not "growing out of acts committed" by the aforesaid vessels, then such claims are not within the reference, and must be so adjudged. || In like manner, if any of the claims set forth in the American Case were not *at the date of the correspondence between Sir Edward Thornton and myself* (in January and February, 1871), "generically known" as part of the Alabama claims, they are not within the jurisdiction of the Tribunal, and must be so adjudged. || The President admits unreservedly that every item of the demand presented at Geneva must, within the meaning of the Treaty, be a "claim" — that it must be one of the claims "generically known as the Alabama claims" — and that it must grow out of acts committed by the vessels which have given rise to the claims thus generically known. || Which of the claims presented by the United States at Geneva answers these requirements, and is well founded, according to the true intent and meaning of the Treaty, is not to be determined by either party litigant, but is a question for the Tribunal to decide. . . . . . .

I cannot pass over without notice the allusion made by Earl Granville to your presence in the House of Lords on the occasion of the debate of the 12th of June last, and the fact that you did not at any time challenge either of the conflicting interpretations of the Treaty expressed on that occasion. I may add that similar reflections upon the conduct of this Government in that relation uttered by prominent statesmen and newspapers in Great Britain have been made public, and thus brought to my notice. || To all of these it is sufficient to say that the President does not hold it as any part of his duty to interfere with the differences in the Parliament or the public press of Great Britain respecting the true construction of the Treaty. The utterances in Parliament are privileged, the discussion in that high body is looked upon by us as a domestic one, of which this Government has no proper cognizance. If it is bound to take notice, it has the right to remonstrate. || To concede either to a foreign State, would be on the part of a Parliamentary Government the abandonment of the independence which is its founda-

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tion, and its great security and pride. || Had you interfered therefore, either to remonstrate or to demand explanation, you would have exposed yourself and your Government to the very just rebuke, which the United States has had occasion to administer to Diplomatic Agents of foreign Governments, who, in ignorance or in disregard of the fundamental principles of a constitutional Government with an independent Legislature, have asked explanations from this Government concerning the debates and proceedings of Congress, or of the communication by the President to that body. || You had a right to assume that if Her Majesty's Government desired any official information from you or your Government respecting the Treaty, or desired to convey any information to you or to your Government, they would signify as much in the usual forms of diplomatic intercourse, as was done by Lord Granville in his note to you of the 3rd February. || Certain it is, that is would have been in violation of recognized diplomatic proprieties had you, on the occasion referred to, taken sides with either of the opposing views of the Treaty uttered on that occasion in Parliament. || Further than this, it appears to me that the principles of English and American law (and they are substantially the same) regarding the construction of Statutes and of Treaties, and of written instruments generally, would preclude the seeking of evidence of intent outside the instrument itself. || It might be a painful trial on which to enter, in seeking the opinions and recollections of parties, to bring into conflict the differing expectations of those who were engaged in the negotiation of an instrument. || While the United States have nothing to fear from departing from the eminently just rule of law to which allusion has been made, it abstains from such departure. || Very much of the matter so elaborately and ingeniously presented in the Memoranda attached to the note of Earl Granville could be fitly and appropriately addressed by the British Government to the Tribunal which is to pass upon the points presented therein. It would require amplification, if not connection of statement, to make it present all the facts essential to a correct judgment, and might require a reply, before that Tribunal. It would certainly require explanation as to many of its presentations, and its logic woule be denied; but it does not seem to require a reply from me in the form of diplomatic correspondence. || As to what is contained in Part III of that Memorandum, I repeat in substance what I mentioned in my note to you on this subject of 27th February, that the indirect losses of this Government, by reason of the inculpated cruisers, are set forth in the American Case as they were submitted to the Joint High Commission in the first discussion of the claims on 8th March, and stand in the Protocol approved 4th May. The were presented at Geneva, not as claims for which a specific demand was made, but as losses and injuries consequent upon the acts complained of, and necessarily to be taken into equitable consideration on a final settlement and adjudication of all the differences submitted to the Tribunal. The decision of what is equitable in the premises, the United States sincerely,

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and without reservation, surrender to the arbitrament designated by the Treaty. || What the rights, duties and true interests of both the contending nations, and of all nations, demand shall be the extent and the measure of liability and damages under the Treaty, is a matter for the supreme determination of the Tribunal established thereby. || Should that august Tribunal decide that a state is not liable for the indirect or consequential results of an accidental or unintentional violation of its neutral obligations, the United States will unhesitatingly accept the decision. || Should it, on the other hand, decide that Great Britain is liable to this Government for such consequential results, they have that full faith in British observance of its engagements, to expect a compliance with the judgment of the Tribunal which a solemn Treaty between the two Powers has created in order to remove and adjust all complaints and claims on the part of the United States. || To the judgment of the Tribunal, when pronounced, the United States will, as they have pledged their faith, implicitly bow. They confidently expect the same submission on the part of the great nation with which they entered into such solemn obligations. || I am, etc. Hamilton Fish.

Nr. 5005.

GROSSBRITANNIEN. — Gesandter in Washington (Sir E. Thornton) an den Min. d. Ausw. — Amerikanischer Vorschlag zur Ausgleichung der Differenz wegen der indirecten Ansprüche. —

(Extract.) Washington, April 30, 1872.

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I called upon Mr. Fish at the State Department on the 25th instant, Thursday, the day of the week on which he requests that members of the Diplomatic Body may visit him. He informed me that he had received the day before a telegram from General Schenck, in which he stated that your Lordship had told him that, if Mr. Fish's answer to your note of the 20th ultimo, did not contain some satisfactory communication with regard to the claims for indirect damages, Her Majesty's Government would be obliged to announce its intention of withdrawing entirely from the Arbitration at Geneva. Mr. Fish added that he should sincerely regret to hear of such an announcement being made, for that it could only be looked upon as a menace, and would destroy all hope of an understanding upon the subject. Mr. Fish then sent for the draft of his despatch to General Schenck in answer to your Lordship's note of the 20th ultimo and read it to me. Your Lordship will probably have received a copy of it from General Schenck yesterday or to-day. Mr. Fish also read me part of the despatch which he had sent to General on the 19th instant, and in which Mr. Fish expressed his surprise that Her Majesty's Government should object so much to a decision by the Tribunal of Arbitration at Geneva on the matter of the indirect claims;

for that it must be aware that the United States' Government neither expected nor desired a money award on account of those claims, and that the United States were quite as much interested as Great Britain in obtaining from the Tribunal a decision adverse to those claims. The tone of the despatch was friendly and conciliatory, and was evidently intended to contribute to bringing about an agreement upon the question at issue. Indeed, I gathered that the part of the draft which was not read to me contained a distinct proposal upon the subject. I fear, however, that this despatch will reach General Schenck too late for practical purposes. || Mr. Fish told me that Mr. Adams left New York for England on the 24th instant, and that, on his arrival there, he would convince your Lordship, though unofficially, that he was entirely opposed to the principle of claims for consequential damages. || But, during the whole conversation, Mr. Fish betrayed anxiety that the Treaty should not be allowed to break down, and frequently expressed his hope that your Lordship would suggest some means of disposing of the indirect claims, which would at the same time satisfy Her Majesty's Government and would be possible for that of the United States; for he said that, even if the latter was not justified in ever having presented those claims, — which he could not admit, — it was impossible for it now to recede or withdraw them, unless it should obtain a *quid pro quo*. If Her Majesty's Government was really anxious that the provisions of the Treaty should be carried out, which I earnestly assured him was certainly the case, why, he asked, should not your Lordship, in your answer to his despatch, now on its way, state that, as the United States' Government had made it evident that it did not desire a money award on account of the indirect claims, but merely a decision on their merits by the Tribunal, Her Majesty's Government would consent never to present such indirect claims, under similar circumstances, when England might happen to be a belligerent, and would allow the abstract question to be decided for the benefit of both parties, if the United States' Government would engage not to ask for a money award on the indirect claims, from the Tribunal at Geneva. || Mr. Fish asked my opinion upon this suggestion; but I replied that it was impossible for me to imagine what Her Majesty's Government might think of such a mode of arrangement, which I had now heard from him for the first time, and upon which I could not possibly have received any instructions from your Lordship. Upon his urging, however, that I should let him know my private feeling on the subject, I said that, with some modifications, I thought it possible that it might form the basis of an arrangement; and that I would have no objection to telegraph the substance of his communication to your Lordship. But I asked whether the President would be able to agree to such an arrangement without receiving the sanction of the Senate to it. Mr. Fish replied with confidence that he could do so, for that it would be merely an agreement as to the regulation of the mode of reference to the Tribunal, which was entirely in the hands

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of the Executive. || Immediately after my interview with Mr. Fish on the 25th instant, I found, in the evening newspaper, allusions to what he had suggested, and coupled with it a statement that the President disagreed with Mr. Fish upon the subject. The latter paid me a visit on the afternoon of the 26th instant, and assured me that the President was entirely in accord with him as to the possibility of an arrangement on the basis to which he had alluded in his conversation of the previous day: and he begged me to assure you that he was fully supported by the President. || During this visit I pointed out to Mr. Fish that, in case the suggestions made by him were taken into consideration, the United States' Government would probably be expected to engage on its part that it would never again make such claims against England as a neutral as had recently been presented in its Case. Mr. Fish replied that, as a matter of course it never would do so, but that to take a formal engagement to that effect would involve the necessity of an application to the Senate.

Nr. 5006.

GROSSBRITANNIEN. — Min. d. Ausw. an den Gesandten in Washington. — Englische Ansicht über den Amerikanischen Vorschlag.

Foreign Office, April 29, 1872.

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Sir, General Schenck told me this day, in a conversation, that he had not yet received the answer from Mr. Fish to my letter of the 20th ultimo, but that he had received a telegraphic message, the substance of which he could not officially communicate until after the delivery of Mr. Fish's answer. || He then read to me as follows: —

"You are aware that, neither in the Case presented in behalf of this Government nor in the instructions to you, have the United States asked for pecuniary damages on account of that part of the 'Alabama claims' called the indirect losses, which the British Government think are not within the province of the Tribunal. || "We think it essential, however, that the question be decided whether claims of that nature can in the future be admitted against the United States as a neutral by Great Britain when the latter is a belligerent; for if Great Britain is to be at liberty while a belligerent to advance claims for indirect losses or injuries against this country, then our claims must be maintained, and we must press for compensation. || "A conversation with Sir E. Thornton induces the belief that the British Government may make a proposal to you to the effect that Her Majesty's Government engages and stipulates, that in future should Great Britain be a belligerent, and this country a neutral, and should there be any failure on the part of the United States to observe their neutral obligations, Great Britain

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will make or advance no complaints or claims against the United States by reason or on account of any indirect, remote, or consequential results of such failure; and that, in consideration of such stipulation, the United States shall not press for a pecuniary award of damages before the Geneva Tribunal on account of the claims respecting which Great Britain has expressed the opinion that they are not included in the submission, namely, the transfer of the American shipping, increased insurance, and the prolongation of the war. Should a proposal to this effect be made by the British Government, the President will assent to it; it being understood that there is no withdrawal of any part of the American Case, but an agreement not to demand damages on account of the claims referred to, leaving the tribunal to make such expression of opinion as it may think proper on that question. It is presumed that such an agreement may be carried into effect by an exchange of notes."

I observed to General Schenck that Sir E. Thornton, in whom I had the fullest confidence, hat no instructions, and no authority to give an opinion on any proposal for the solution of the difficulty. || I had purposely desired to confine the negotiations to one channel, in order to avoid confusion. || The United States' Minister remarked that the words of the telegram did not go so far as to say that Sir E. Thornton had done so. || I then stated that the proposal in its present shape could not be adopted by Her Majesty's Government. It was only proposed that the American Government, who had presented the claims for indirect losses, shall no further press them. But the Arbitrators had them before them; we certainly should not consent to plead against them; and the mere absence of further pressing them by the United States' Government would leave the matter, as regarded the Arbitrators, in the position it now was. || As to the Arbitrators being left to make such expression of opinion as they may think proper on that question, it appeared to be unintelligible. || If the United States' Government agreed substantially to withdraw the indirect claims, it was not only with a feeling, which I cordially appreciated, of maintaining the most friendly feelings between the two countries, but also because they believed it was in the interest of both that there should be no future liability on the part of either Government for such claims. If we both came to an agreement, no strength would be given to that agreement by a favourable expression of opinion from a body who were not appointed in order to lay down principles of international law; and if they gave a contrary opinion, it would be an unseemly result, and against the interest of both countries. || I then read to him the following statement of the views which the Cabinet were disposed to entertain as to the course which might be pursued: —

"We are ready to join with the United States in a statement to the Arbitrators that, in any award they may make, they are not to have regard to the indirect claims. We are also ready to state that the language we

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have hitherto used respecting these indirect claims involves a declaration of intention, which is to guide our conduct in future. Any such intention, and its binding force on future conduct, would of course be reciprocal. We do not know what is meant by the submission of the abstract question to the Arbitrators, nor do we see how it could be admissible, inasmuch as that question would already have been virtually decided by mutual consent."

General Schenck then asked me why I should not write to him such a note as he would suggest in which it should be said that "while Her Majesty's Government still adhere to their view that it is not within the province of the Arbitrators to consider or decide upon the claims for indirect losses, and that therefore the Government of the United States ought not to press for a consideration of such claims, yet they are free to state that, in the event of the Government of the United States agreeing to refrain from pressing for compensation, or for any pecuniary award for that portion of their claims as set out in their Case to the Geneva Arbitrators, Her Majesty's Government will, on their part, agree that the view of the inadmissibility of such claims which they have heretofore presented, will still continue to be their principle of action and conduct in all like cases, and in similar circumstances, and particularly, are ready to give assurance, in pursuance of the recognition of such principles, to the Government of the United States, that if Great Britain should at any time hereafter be a belligerent while the United States are neutral, claims of that nature will never be advanced against the United States." ‖ I stated to the United States' Minister that the Cabinet, in discussing the scheme sent by Sir E. Thornton, had treated it as Mr. Fish's proposal, and had not entertained the thought of its being a proposal to be made by themselves. ‖ General Schenck said that it was of great importance that we should make the proposal. ‖ I said that I had been writing at his dictation and did not wish to put words in his mouth, but that I thought the words which I had used, "not to have regard" to claims for indirect losses, were better in every way than those which he had adopted from Mr. Fish's telegram, "not to press", etc. ‖ I had no doubt of the good faith of the United States' Government, but it was desirable, after the past misunderstanding, to make everything as clear as possible. General Schenck declined to deviate from the telegram in this particular. ‖ I then suggested the addition of the words "and such agreement beeing made known to the Arbitrators before the 15th of June," which he adopted. I also pointed out the omission of any declaration of reciprocity for the future, which was a matter of course, and he authorized me to write down "such understanding between the parties of course to be reciprocal for the future". ‖ General Schenck repeated a strong appeal to me to be contented with substantially getting what we wanted. ‖ I promised to submit what he had written, and for which I could undertake no responsibility, to my colleagues, and we agreed to continue confidential communication in order to save time. ‖ After consul-

tation with my colleagues, I forwarded to General Schenck the note and inclosure, of which I transmit copies herewith. || I am, etc.

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Granville.

Beilage.

Draft confidentially given to General Schenck as a possible communication to him if the United States' Government have promised to assent to it, and have previously put Her Majesty's Government in possession of the terms of the assent.

Her Majesty's Government adhere to their view that it is not within the province of the Arbitrators to consider or to decide upon the claims for indirect losses, viz., the transfer of the American shipping, the increased premiums of insurance, and the prolongation of the war; and that, consequently, the Government of the United States ought not to press for a consideration of such claims. They are, however, ready to state that in the event of the Government of the United States agreeing that the Arbitrators are not to have regard, in any award that they may make, to the above-mentioned claims, Her Majesty's Government will, on their part, agree that the view which they have heretofore presented of the inadmissibility of such claims, shall still continue to be their principle of action and conduct in all like cases and in similar circumstances; and they are ready, in pursuance of the recognition of such principles, to give assurance to the United States that, if Great Britain should at any time hereafter be a belligerent, while the United States is a neutral, claims of that nature in similar cases and similar circumstances will never be advanced against the United States. Such an assurance for the future being reciprocally given by both parties.

An arrangement such as is here sketched out might be carried into effect by an exchange of notes, which shall be communicated to, and recorded by, the Arbitrators.

Nr. 5007.

GROSSBRITANNIEN. — Min. des Ausw. an den Gesandten der Vereinigten Staaten in London. — Recapitulation der Verhandlungen.

Foreign Office, May 10, 1872.

Sir, in replying to the communication which you made to me on the 8th instant, I think it well to recapitulate the recent communications which I have had with you on the subject of the arbitration on the "Alabama claims." ||

Nr. 5007. Grossbritannien. 10. Mai 1872.

Nr. 5007. Gross-britannien. 10. Mai 1872.

On the 29th of April you made an informal communication to me, which you subsequently rendered official, informing me that a proposal made by this country on a certain basis would be acceptable. Her Majesty's Government thereupon decided to assume the initiative, and they framed upon that basis, as they understood it, the accompanying draft with a view to an interchange of notes. || This draft, which had been subjected to various alterations to bring it more closely in conformity with the views which you had expressed, and to make it, as they believed, more acceptable to the Government of the United States, was delivered to you on the 6th instant. || On the 8th instant, you communicated to me a telegraphic message, apparently in reply to this draft, from your Government, of which I made the accompanying memorandum. || Her Majesty's Government are by this telegram invited to propose an Article in addition to, or in amendment of, the Treaty of the 8th of May, 1871. || The Treaty is, in the judgment of Her Majesty's Government, clear and sufficient, and excludes from the Arbitration the claims for indirect losses advanced by the Government of the United States. It is therefore difficult for Her Majesty's Government to take the initiative in the manner the United States have proposed. || They think that it belongs to the Government of the United States, to whose friendly suggestions the communications which have taken place since the date of Mr. Fish's reply to my letter of the 20th March, have been due, to frame the suggested Article; yet, in order to meet their wishes, and to save any inconvenient delay, I will transmit to you a draft of an Article, which, if the Government of the United States think fit to adopt, will be accepted by Her Majesty's Government. || I have, etc.

Granville.

Beilage.

Memorandum of a communication to Earl Granville by General Schenck on the 8th May.

The United States' Government claim, and insist upon their claim, that under the Treaty the claims for indirect losses which have been put forward are admissible to be considered by the Arbitrators, although they do not expect, and never have expected, a pecuniary award of damages for such claims. || Great Britain denies that such claims come within the scope or province of the Arbitrators to consider or decide upon. || The argumentative discussion has ended, leaving each Party adhering to their position. || The United States' Government, in this condition of things, have been willing to accept a proposal from Great Britain that, in consideration of not pressing for a pecuniary award on these indirect claims, Great Britain would, on her part, agree to engage not to advance in the future in any case when she

Nr. 5007. Gross-britannien. 10. Mai 1872.

should be a belligerent and the United States neutral, such claims for indirect damages as are put forward by the United States' Government in the Case presented on their behalf to the Tribunal of Arbitration at Geneva, and to make that reciprocally the rule for the future. Great Britain is understood to object to this on the ground that an agreement not to press for compensation for these indirect claims is not sufficient, because the Arbitrators in that case might themselves proceed to take them into consideration and make them the subject of an award; and therefore Great Britain has only been willing to establish the rule in regard to indirect damages, on condition that the American part of the Case at Geneva, which puts forward these particular claims, should be entirely withdrawn from the consideration of the Arbitrators. The President holds that he has power to give instructions in regard to the management of the Case before the Arbitrators, and therefore could direct that these claims should not *be pressed* for an award. But inasmuch as the Government of the United States hold that the claims are admissible to be considered by the Arbitrators under the Treaty, he cannot withdraw the claims as not being rightfully put forward without its being such an alteration of the terms and principles of the Treaty as is inconsistent with his understanding of it, and the interpretation which has been put upon it by his Government. || The Treaty itself, however, may be amended in such a manner as to accomplish the object and remove all differences between the two Governments arising out of their different interpretations of its provisions. || General Schenck is therefore authorized to state that the President will be willing to consider, and, if possible, will present for the consideration of the Senate, any new Article for the Treaty which may be proposed by the British Government, which, while it states the principle involved in the presentation of what are called the indirect claims, will remove the differences which have arisen between the two Governments in the consideration of the Treaty. || The President is earnestly desirous to do everything consistent with his duty and with the great interest for the purpose of both countries, and to preserve principles so important to civilization as he thinks are involved in the Treaty of which he is anxious to prevent the failure, and to this end, he is willing to exhaust all proper efforts as far as can be done without abandoning any principle, and consistently with the honour and dignity of both Governments.

Nr. 5008.

GROSSBRITANNIEN. — Minister d. Ausw. an den Gesandten der Ver. Staaten in London. — Entwurf eines Vertragsartikels zum Ausgleich.

Foreign Office, May 10, 1872.

Nr. 5008. Gross-britannien. 10. Mai 1872.

Sir, I have the honour to transmit to you, herewith, the draft of an Article referred to in my preceding note of this day's date. || I have, etc.

Granville.

Beilage.

Draft Article.

Whereas the Government of Her Britannic Majesty has contended, in the recent correspondence with the Government of the United States, as follows, namely: —

That such indirect claims as those for the national losses stated in the Case presented on the part of the Government of the United States to the Tribunal of Arbitration at Geneva, to have been sustained by „the loss in the transfer of American commercial marine to the British flag; the enhanced payments of insurance; the prolongation of the war; and the addition of a large sum to the cost of the war, and the suppression of the rebellion:" — firstly, were not included, in fact, in the Treaty of Washington; and further, and secondly, should not be admitted in principle as growing out of the acts committed by particular vessels, alleged to have been enabled to commit depredations upon the shipping of a belligerent, by reason of such a want of due diligence in the performance of neutral obligations as that which is imputed by the United States to Great Britain.

And whereas the Government of Her Britannic Majesty has also declared that the principle involved in the second of the contentions hereinbefore set forth will guide their conduct in future:

And whereas the President of the United States, while adhering to his contention that the said claims were included in the Treaty, adopts for the future the principle contained in the second of the said contentions, so far as to declare that it will hereafter guide the conduct of the Government of the United States, and the two countries are, therefore, agreed in this respect.

In consideration thereof the President of the United States, by and with the advice of the Senate thereof, consents that he will make no claim on the part of the United States in respect of indirect losses as aforesaid, before the Tribunal of Arbitration at Geneva.

Nr. 5009.

VEREINIGTE STAATEN von AMERIKA. — Staatssecretair d. Ausw. an den Gesandten in London. — Amendirung des Vertragsartikels durch den Amerikanischen Senat.

(Telegraphic.) Washington, May 26, 1872.

Nr. 5009. Ver. Staaten. 26. Mai 1872.

The President having requested an expression by the Senate of their disposition in regard to advising and consenting to the formal adoption of the Article proposed by the British Government as communicated in your telegram of May 10, that body has amended the proposed Article and agrees to advise and consent to its adoption in the following terms:

Down to and including the words „Great Britain," the same as in the Article proposed, then the following: —

"And whereas, the Government of the United States has contended that the said claims were included in the Treaty, and whereas, both Governments adopt for the future the principle that claims for remote or indirect losses should not be admitted as the result of failure to observe neutral obligations so far as to declare that it will hereafter guide the conduct of both Governments in their relations with each other.

„Now, therefore, in consideration thereof the President of the United States, by and with the advice and consent of the Senate thereof, consents that he will make no claim on the part of the United States in respect of indirect losses as aforesaid before the Tribunal of Arbitration at Geneva."

You will without delay inform Lord Granville in pursuance of this action of the Senate, the President will negotiate the new Article in the terms and to the effect of the foregoing. || You will also say to him that the two Houses of Congress have passed a concurrent resolution to adjourn *sine die* on the 29th instant, and that a Treaty embodying the Article must be presented to the Senate and receive its approval. It is important therefore that authority be speedily given to Her Majesty's Minister here to sign the Convention if the British Government conclude to enter into the agreement. || A copy of the Article has been furnished to Sir Edward Thornton.

Nr. 5010.

GROSSBRITANNIEN. — Min. d. Ausw. an den Gesandten der Ver. Staaten in London. — Ablehnung des Senatsamendements und Gegenvorschlag.

Foreign Office, May 27, 1872.

Nr. 5010. Grossbritannien. 27. Mai 1872.

Sir, I have lost no time in laying before the Cabinet the telegraphic despatch from Mr. Fish, which you communicated to me this afternoon, in-

Nr. 5010. Gross-britannien. 27. Mai 1872.

forming you of the result of the deliberations of the Senate on the Draft Article submitted for their advice by the President of the United States. || It appeared from this despatch that the Senate had agreed to advise, and consent to, the adoption of the proposed Article with the substitution for the third and fourth paragraphs of two paragraphs as follows:—

"And whereas the Government of the United States has contended that the said claims were included in the Treaty;

"And whereas both Governments adopt for the future the principle that claims for remote or indirect losses should not be admitted as the result of the failure to observe neutral obligations, so far as to declare that it will hereafter guide the conduct of both Governments in their relations with each other.

"Now, therefore, etc."

In communicating this despatch to me you inquired whether any possible interpretation could be given to the proposed Article in the form in which the Senate have modified it, taking all its parts together, which would prevent taking before the Arbitrators to be considered by them in making their award, that part of the claim called "direct claims" in the Case, which relates to the cost of pursuit and capture of cruizers. || I have now the honour to state that I must, on behalf of Her Majesty's Government, decline to answer the question which you have put to me as to the effect of the Article as altered by the Senate, or to state what possible construction it may bear. || Her Majesty's Government are of opinion that the definition, as therein expressed, of the principle which both Governments are prepared to adopt for the future, is so vague, that it is impossible to state to what it is or is not applicable, and they believe that it would only lead to future misunderstandings. || Her Majesty's Government prefer the Article as they had drafted it, but have no objection to accept the Article in the form proposed by the Senate, with the substitution of the words "of a like nature" for the words "for remote or indirect losses," and the substitution of the words "such want of due diligence on the part of a neutral" for the words "the failure to observe neutral obligations." || The Article would then run thus: —

"And whereas both Governments adopt for the future the principle that claims of a like nature should not be admitted as the result of such a want of due diligence on the part of a neutral, so far as to declare that it will hereafter guide the conduct of both Governments in their relations with each other." || I am, etc.

Granville.

Nr. 5011.

GROSSBRITANNIEN. — Min. d. Ausw. an den Gesandten der Vereinigten Staaten in London. — Vorschlag, das Genfer Schiedsgericht zu vertagen.

Foreign Office, May 28, 1872.

Nr. 5011. Grossbritannien. 28. Mai 1872.

Sir, I think it desirable at once to adress to you the following observations in addition to what is stated in my letter of yesterday. || Her Majesty's Government proposed an Article on the suggestion of the American Government. || That Article has been amended by the Senate. || Her Majesty's Government are not able to find for it, as amended, any means or standard of interpretation. || The words appear to include the wilful misconduct of a neutral as well as a failure from want of due diligence. They cannot suppose this to be the meaning of the American Government. || Her Majesty's Government hold all the claims made by the United States for losses, which were the direct results of the acts of vessels mentioned in the Treaty, to be claims for "indirect losses as the result of the failure to observe neutral obligations." || Her Majesty's Government hold many of the claims for the losses above-mentioned to be claims for losses, which are "remote," as well as "indirect," while "resulting from a failure to observe neutral obligations." || Her Majesty's Government are unable to signify an assent to a form of Article of which they cannot for themselves discover the scope, and with respect to which, owing probably to the difficulty of telegraphic communication, they have not been apprized of the meaning which the American Government attaches to it, or of the reasons which have led to its being proposed. || If the Government of the United States think it desirable to give the information which Her Majesty's Government want to receive on these points, and also think that for that purpose some adjournment of the time of meeting of the Arbitrators at Geneva should take place, Her Majesty's Government would be ready to agree to any suitable proposal for that purpose, wich they presume could only be done by a short Treaty between the two Governments. || I am, etc.

Granville.

Nr. 5012.

GROSSBRITANNIEN. — Gesandter in Washington an den Min. d. Ausw. — Weigerung der Ver. Staaten auf die englische Fassung einzugehen.

(Extract.) Washington, May 28, 1872.

Nr. 5012. Gross-britannien. 28. Mai 1872.

With regard to the alterations which Her Majesty's Government desires should be made in the Supplementary Article as recommended by the recent decision of the Senate, Mr. Fish said that it was out of the power of the United States' Government to accede to them, or indeed to any change of the words, as they had been decided upon be the Senate. He informed me that he had himself had a long discussion with the Committee on Foreign Relations of the Senate upon the subject, and that he was convinced, from the nature of that discussion, that it would be in vain to submit to the Senate the alterations now transmitted by your Lordship; for that it had been expressly intended by the Committee that the principle should be enlarged, and that the nonadmittance of indirect claims should be extended to all such claims, and should not be limited to those of that particular class which were specified in the contention of Her Majesty's Government. || These views of the Committee had been fully supported by the Senate, who considered that the adoption of the wider principle with regard to indirect claims would be an equivalent for the consent given by the President that he would make no claim for indirect losses before the Tribunal of Arbitration at Geneva. He was convinced, from his knowledge of the feelings of the Senate upon the subject, that any further appeal to that body would have no effect whatever. || From a great deal that I have heard from other quarters, and from the extreme difficulty with which the sanction of the Senate has been obtained to the Supplementary Article, even as modified by it, I cannot but acquiesce in Mr. Fish's opinion that any further reference to the Senate would be of no avail.

Nr. 5013.

GROSSBRITANNIEN. — Min. d. Ausw. an den Gesandten der Ver. Staaten in London. — Wiederholung des Antrags auf Vertagung des Schiedsgerichts.

Foreign Office, June 1, 1872.

Nr. 5013. Gross-britannien. 1. Juni 1872.

Sir, in reply to the communication which I received from you this morning, I beg to inform you that Her Majesty's Government hold that, by the Article adopted by the Senate, cases of bad faith and wilful misconduct

are brought within the scope of the proposed agreement which deals with pecuniary compensation. || It appears to be the view of the Government of the United States that such cases are not a fit subject of pecuniary compensation, and I am informed by Sir E. Thornton that Mr. Fish is of opinion that the Article adopted by the Senate is capable of improvement. || The President thinks that the Article last proposed by Her Majesty's Government is also capable of improvement. || The American Government states that "it is not believed that there is any such difference of object between the two Governments in the definition and limitation which each desires to place upon the liability of a neutral as to prevent an agreement on the language in which to express it if time be allowed for the exchange of views by some other means than the telegraph." || The British Government must decline to sign a Treaty which is not in conformity with their views and which does not express the principle, which the American Government believes to be entertained by both parties to the negotiation, and which, immediately after being signed, would become the subject of negotiation with a view to its alteration. || In this position they repeat their readiness to extend the time for the Arbitrators to meet at Geneva, and they have, as you are aware, provided Sir E. Thornton with full powers to sign a Treaty for this purpose, or they are willing to concur in a joint application to the Tribunal of Arbitration at once to adjourn the proceedings of the Arbitration, which they are advised it is within the competence of the Arbitrators to do upon such an application without a fresh Treaty. || I am, etc

Nr. 5013. Gross-britannien. 1. Juni 1872.

Granville.

Nr. 5014.

GROSSBRITANNIEN. — Gesandter in Washington an den Minister d. Ausw. — Amerikanischer Gegenvorschlag auf Vertagung nach Ueberreichung der „Arguments".

(Telegraphic.) Washington, June 2, 1872.

I have the honour to report to your Lordship that Mr. Fish has informed me that he has sent a telegram to General Schenck suggesting that the Agents of the United States and of Great Britain should respectively deliver to the Tribunal of Arbitration at Geneva the Arguments which they are directed to put in under the Vth Article of the Treaty, and that the Tribunal should then adjourn. || I have most earnestly urged Mr. Fish to endeavour to obtain the approval of the Senate to a Convention for adjournment

Nr. 5014. Gross-britannien. 2. Juni 1872.

Nr. 5014. Gross-britannien. 2. Juni 1872. or to a Convention embodying the Article which you sent to General Schenck on the 30th ultimo, but Mr. Fish replies that the pressure of business is so great that the Senators will not even listen to any proposal.

Nr. 5015.

VEREINIGTE STAATEN von AMERIKA. — Staatssecr. d. Ausw. an den Gesandten in London. — Erläuterung des Senatsvorschlags.

(Telegraphic.) Washington, June 2, 1872.

Nr. 5015. Ver. Staaten. 2. Juni 1872. Although by a literal construction of the Senate Article, cases of bad faith and wilful misconduct may be held to be within its scope, it is inconceivable that such cases can ever be the subject of diplomatic correspondence, with a view to pecuniary compensation between two Powers such as those now concerned.

Nr. 5016.

VEREINIGTE STAATEN von AMERIKA. — Gesandter in London an den englischen Min. d. Ausw. — Erklärung über die Bedeutung des Vertragsartikels.

Legation of the United States, London,
June 6, 1872.

Nr. 5016. Ver. Staaten. 6. Juni 1872. My Lord, in the conversation we had yesterday, and which was resumed this morning, you stated to me that Her Majesty's Government have always thought the language, proposed by them in the Draft Article, as it stands, sufficient for the purpose of removing and putting an end to all demands on the part of the United States in respect to those indirect claims which they put forth in their Case at Geneva, and to the admissibility of which Her Majesty's Government have objected; but that there were those who doubted whether the terms used were explicit enough to make that perfectly clear, and to prevent those same claims from being put forward again. I concurred with you in your view as to the sufficiency of the language used in that clause of the proposed Article, and which the Government of the United States had accepted; and I repelled the idea that any body should think it possible that the Government of the United States, if they should yield those claims for a consideration in a settlement between the two countries, would seek to bring them up in the future, or would insist that they were still before the Arbitrators for their consideration. I am now authorized in a

telegraphic despatch, received to day from Mr. Fish, to say that the Government of the United States regards the new rule contained in the proposed Article as the consideration for, and to be accepted as, a final settlement of the three classes of the indirect claims put forth in the Case of the United States to which the Government of Great Britain have objected. || I have etc.

Nr. 5016. Ver. Staaten. 6. Juni 1872.

Robt. C. Schenck.

Nr. 5017.

VEREINIGTE STAATEN von AMERIKA. — Staatssecr. d. Ausw. an den Gesandten in London. — Ablehnung des englischen Amendements und des englischen Vertagungsvorschlags.

(Telegraphic.) Washington, June 8, 1872.

Your telegrams of yesterday received last evening. || I have been quite ill, and unable to reply sooner or fuller. || The first criticism on the language of the Senate amendment to the proposed Article is regarded as hypercritical and strained. It is so regarded here generally; and a discussion upon it in the Senate or in the press would be inexpedient, and would not tend to advance a settlement. || The Senate is very impatient for adjournment; and the Senate, the public and the press are impatient over the delays and what they regard as either captious or dilatory objections and proposals to amend or explain what has been intended and proposed in the most perfect good faith. || The new Article can be ratified, as I said in a recent telegram. But if amendments be proposed, or explanatory notes requiring the Senate's approval are submitted, it will be impossible to obtain ratification. To insist upon any such course is to defeat the Article. || This Government cannot adopt the argument of Lord Granville respecting the putting in of the arguments of both Governments on the 15th. We think the Treaty requires it to be done, and that the requirements can be dispensed with only by a Treaty. || The Senate will adjourn on Monday. I see no possibility of an agreement upon any thing else than the Article as agreed to by the Senate.

Nr. 5017. Ver. Staaten. 8. Juni 1872.

Nr. 5018.

GROSSBRITANNIEN. — Min. des Ausw. an den Gesandten der Ver. Staaten in London. — Mittheilung über die beabsichtigte Haltung Englands vor dem Genfer Schiedsgerichte.

Foreign Office, June 10, 1872.

Nr. 5018. Gross-britannien. 10. Juni 1872.

Sir, Her Majesty's Government understand that the Government of the United States decline any agreement between the two Governments unless the Government of Her Majesty consent to sign the Supplemental Article as altered by the Senate, to which Her Majesty's Government have stated their objections; or unless, without any declaration as to our doing so *sub modo*, they agree to take a further step in the proceedings before the Arbitrators while a misunderstanding exists as to what both parties agreed to submit to arbitration. || Mr. Fish states to you that the Government of the United States have no reason to ask for an adjournment of the arbitration at Geneva. The reason which actuated Her Majesty's Government in proposing it, was to obtain time for the conclusion of an agreement, at which both parties had already nearly arrived. || Her Majesty's Government will have now to consider what may be the course most consistent with the declarations they have heretofore made, most respectful to the Tribunal of Arbitration, and the most courteous to the United States. || The British Arbitrator will proceed to Geneva, and at the meeting of the Tribunal the British Agent will be directed to present to them a statement to the following effect: —

Her Majesty's Government regret to be under the necessity of informing the Arbitrators that the difference between Her Majesty's Government and the Government of the United States, referred to in the note which accompanied the presentation of the British Counter-Case on the 15th of April last, has not yet been removed. Her Majesty's Government have, however, been engaged in negotiations with the Government of the United States, which have continued down to the present time, for the solution of the difficulty which has thus arisen; and they do not abandon the hope that, if further time were given for that purpose, such a solution might be found practicable. || Under these circumstances, the course which Her Majesty's Government would respectfully request the Tribunal to take is, to adjourn the present meeting for such a period as may enable a Supplementary Convention to be still concluded and ratified between the High Contracting Parties. || In the meantime, the High Contracting Parties not being in accord as to the subject matter of the reference to arbitration, Her Majesty's Government regret to find themselves unable to deliver the written Argument which their Agent is directed to put in under the Vth Article of the Treaty (although that Argument has been duly prepared, and is in the hands of their Agent), or to take any other

step, at the present time, in the intended arbitration. || It will, of course, be understood by the Tribunal that Her Majesty's Government (while they would consider the Tribunal to have full power to proceed at the end of the period of adjournment, if the difference between the High Contracting Parties should then have been removed, notwithstanding the non-delivery on this day of the Argument by the British Agent) continue, while requesting this adjournment, to reserve all Her Majesty's rights, in the event of an agreement not being finally arrived at, in the same manner as was expressed in the note which accompanied the British Counter-Case. || I am, etc.

Nr. 5018. Grossbritannien. 10. Juni 1872.

Granville.

Nr. 5019.

GROSSBRITANNIEN. — Min. d. Ausw. an den Gesandten der Ver. Staaten in London. — Recapitulation der Verhandlungen.

Foreign Office, June 11, 1872.

Sir, it may be useful that I should briefly recapitulate the negotiations which have passed with respect to the supplementary Treaty Article, in order that there may be a distinct and connected record of them. On the 10th of May Her Majesty's Government, although they considered that the proposal of the form of Article would come more conveniently from the United States' Government, proposed the Draft Article as originally forwarded to you on that day. || This Draft Article was substantially the same as the Draft Note, the interchange of which had formed the subject of previous correspondence. || On the 26th of May Her Majesty's Government learned that the Senate had recommended the President to negotiate a Convention on the basis of this Draft Article, with the substitution of two other paragraphs for the 4th and 5th paragraphs of the English Draft, as follows: —

Nr. 5019. Grossbritannien. 11. Juni 1872.

"Whereas the Government of Her Britannic Majesty has contended, in the recent correspondence with the Government of the United States, as follows, namely: —

"That such indirect claims as those for the national losses stated, in the Case presented on the part of the Government of the United States to the Tribunal of Arbitration at Geneva, to have been sustained by the 'loss in the transfer of the American commercial marine to the British flag, the enhanced payments of insurance, the prolongation of the war, and the addition of a large sum to the cost of the war and the suppression of the rebellion;' firstly, were not included, in fact, in the Treaty of Washington; and further, and secondly, should not be admitted in principle as growing out of the acts committed by particular vessels, alleged to have been enabled to commit de-

Nr. 5019. Gross-britannien. 11. Juni 1872.

predations upon the shipping of a belligerent by reason of such a want of due diligence in the performance of neutral obligations as that which is imputed by the United States to Great Britain:

"And whereas the Government of the United States has contended that the said claims were included in the Treaty:

"And whereas both Governments adopt for the future the principle that claims for remote or indirect losses should not be admitted as the result of the failure to observe neutral obligations so far as to declare that it will hereafter guide the conduct of both Governments in their relations with each other:

"Now, therefore, in consideration thereof, the President of the United States, by and with the advice and consent of the Senate thereof, consents that he will make no claim on the part of the United States in respect of indirect losses as aforesaid, before the Tribunal of Arbitration at Geneva."

Her Majesty's Government objected, as I informed you in my letter of the 27th of May, to the definition, as therein expressed, of the principle which both Governments are prepared to adopt for the future as too vague, and proposed the substitution of the words "of a like nature" for the words "for remote or indirect losses," and the substitution of the words "such want of due diligence on the part of a neutral" for the words "the failure to observe neutral obligations." ‖ On the 29th of May you communicated to me the substance of a telegraphic despatch from Mr. Fish stating that the Government of the United States declined to agree to these alterations, as the establishment of the principle embodied in the Article as assented to by the Senate had been its object in adhering to that Article. You had previously explained to me on the preceding day that what you considered that the Government of the United States desired, was the establishment of a general principle to be applied to cases as they might arise and not limited to particular cases or circumstances which may or may not ever occur. | Her Majesty's Government did not pretend that the words suggested by themselves were incapable of improvement, and made another proposal to you on the 30th of May, which they trusted would meet the views of both Governments, as follows: —

"Whereas the Government of Her Britannic Majesty has contended, in the recent correspondence with the Government of the United States, as follows, namely: —

"That such indirect claims as those for the national losses stated, in the Case presented on the part of the Government of the United States to the Tribunal of Arbitration at Geneva, to have been sustained by 'the loss in the transfer of the American commercial marine to the British flag, the enhanced payments of insurance, the prolongation of the war, and the addition of a large sum to the cost of the war and the suppression of the rebellion;' firstly, were not included, in fact, in the Treaty of Washington; and further,

Nr. 5019. Grossbritannien. 11. Juni 1872.

and secondly, should not be admitted in priciple as growing out of the acts committed by particular vessels, alleged to have been enabled to commit depredations upon the shipping of a belligerent by reason of such a want of due diligence in the performance of neutral obligations as that which is imputed by the United States to Great Britain:

"And whereas the Government of the United States has contended that the said claims were included in the Treaty:

"And whereas both Governments adopt for the future the principle that claims against neutrals for remote and indirect losses should not be admitted as resulting from the acts of belligerents, which such belligerents may have been enabled to commit, by reason of a want of due diligence on the part of a neutral in the performance of neutral obligations, so far as to declare that this principle will hereafter guide the conduct of both Governments in their relations with each other:

"Now, therefore, in consideration thereof, the President of the United States, by and with the advice and consent of the Senate thereof, consents that he will make no claim on the part of the United States before the Tribunal of Arbitration at Geneva, in respect of the several classes of indirect losses hereinbefore enumerated."

On the 31st of May Her Majesty's Government were informed by Sir E. Thornton that Mr. Fish acknowledged that the Article recommended by the Senate was capable of improvement, and thought that the one proposed by Her Majesty's Government might also be improved; and believed that, with sufficient time, an agreement could be come to, satisfactory to both countries, which have the same object. On the same night you communicated to me a telegraphic message from Mr. Fish, stating that "it is not believed that there is any such difference of object between the two Governments in the definition and limitation which each desires to place upon the liability of a neutral as to prevent an agreement on the language in which to express it, if time be allowed for an exchange of views by some other means than the telegraph, and that it appeared to the President that the form of Article last proposed by Her Majesty's Government left a large class of very probable cases unprovided for, and that he held (with reference to an observation in my letter to you of the 28th of May) "that the results of bad faith or wilful misconduct towards either of the two Governments would never be the subject of pecuniary compensation." Her Majesty's Government, in their earnest desire to meet the views of the Government of the United States, thereupon made the proposal contained in my letter to you of the 5th instant, the effect of which is to leave the Article as proposed by the Senate with the addition merely of some few words of definition which, if the intention of the Senate was that which Her Majesty's Government have been willing to believe (though they think it insufficiently expressed), do not in any way affect it in principle, viz., "the remote or indirect losses mentioned in this agreement being

Nr. 5019. Gross-britannien. 11. Juni 1872.

losses arising remotely or indirectly, and not directly, from the acts of belligerents," and of a declaration as to acts of wilful violation of international duties, which might either be inserted in the Article or made at the time of the exchange of ratifications. || Having learnt on the 6th instant that the Government of the United States entertained objections to the use of the expression "acts of belligerents," Her Majesty's Government informed you that they were willing to change it to "acts of war." || Her Majesty's Government believe, therefore, that they have met all the objections, so far as they have been informed of them, which have been from time to time advanced to the suggestions which they have made, and that this recapitulation of the negotiation shows that, unless Her Majesty's Government have erred in their view of the probable intention of the Senate, the two Governments are substantially agreed, or that, if there is any difference between them in principle, it is reduced to the smallest proportions. || On the other hand, the objections which Her Majesty's Government entertain and have expressed to the language of the amendements made by the Senate are founded upon reasons to which they attach the greatest importance, though they think it probable that the Senate did not intend to use that language in the sense which, according to the view of Her Majesty's Government, the words properly bear. || The Government of the United States have stated in the telegraphic message from Mr. Fish to which I have already referred, that there are some cases not provided for in the words suggested by Her Majesty's Government on the 30th of May. If the Government of the United States are of opinion that these cases are not covered by the last proposed form of Article, and will state what are the cases in question, Her Majesty's Government cannot but think that the two Governments might probably agree upon a form of words which would meet them without being open to the objections which they have felt to the wording of the Article as proposed by the Senate. Her Majesty's Government have never put forward their words as an ultimatum, and they will be willing to consider at the proper time other words, if an adjournment is agreed upon. || I have much pleasure in taking advantage of the present occasion to request you to convey to the Government of the United States the appreciation by Her Majesty's Government of the frank and friendly declaration contained in your letter to me of the 6th instant, respecting the last paragraph of the Draft Article. || Her Majesty's Government had never supposed that the Government of the United States had differed from Her Majesty's Government in the sense attached to that portion of the Article, but they look upon the declaration made in your letter as an additional proof of the anxiety which they are confident is shared by both Governments of bringing the negotiation to an honourable and successful issue. || I am, etc.

Granville.

Nr. 5020.

GROSSBRITANNIEN und VEREINIGTE STAATEN von AMERIKA. — Protocol Nr. I. — Record of the Proceedings of the Tribunal of Arbitration under the provisions of the Treaty between Her Britannic Majesty and the United States of America, concluded on the 8th of May, 1871, at the First Conference, held at Geneva, in Switzerland, on the 15th day of December, 1871.

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The Conference was convened at the Hotel de Ville at Geneva in compliance with notices from Lord Tenterden, Agent of Her Britannic Majesty, and Mr. J. C. Bancroft Davis, Agent of the United States, in the form following: —

"The Undersigned having been appointed Agent of Her Britannic Majesty to attend the Tribunal of Arbitration about to be convened at Geneva under the provisions of the Treaty between Great Britain and the United States of the 8th of May last, has the honour to acquaint Count Sclopis that it is proposed by the Government of Her Britannic Majesty that the first meeting of the Tribunal should be held at Geneva, if not inconvenient to the Arbitrators, on the 15th instant.

(Signed) "Tenterden."

The Arbitrators who were present and produced their respective powers, which were examined and found to be in good and due form, were: —

The Right Honourable Sir Alexander Cockburn, the Lord Chief Justice of England, the Arbitrator named by Her Britannic Majesty; Charles Francis Adams, Esquire, the Arbitrator named by the President of the United States of America; his Excellency Count Sclopis, the Arbitrator named by His Majesty the King of Italy; Mr. Jacques Staempfli, the Arbitrator named by the President of the Swiss Confederation; and his Excellency the Baron d'Itajubá, the Arbitrator named by His Majesty the Emperor of Brazil.

The Right Honourable Lord Tenterden attended the Conference as the Agent of Her Britannic Majesty; J. C. Bancroft Davis, Esquire attended as the Agent of the United States.

Mr. Adams proposed that Count Sclopis, as being the Arbitrator named by the Power first mentioned in the Treaty after Great Britain and the United States, should preside over the labours of the Tribunal.

The proposal was seconded by Sir Alexander Cockburn and was unanimously adopted, and Count Sclopis, having expressed his acknowledgments, assumed the Presidency.

On the proposal of Count Sclopis, the Tribunal of Arbitration requested the Arbitrator named by the President of the Swiss Confederation to recommend some suitable person to act as the Secretary of the Tribunal.

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The Swiss Arbitrator named M. Alexandre Favrot as a suitable person, and M. Alexandre Favrot was thereupon appointed by the Tribunal of Arbitration to act as its Secretary during the Conferences, and entered upon the duties of that office.

Lord Tenterden then presented in duplicate to each of the Arbitrators and to the Agent of the United States, the printed Case of the Government of Her Britannic Majesty,[1]) accompanied by the documents, official correspondence, and other evidence on which it relies.

Mr. J. C. Bancroft Davis, in like manner, presented to each of the Arbitrators and to the Agent of Great Britain, the printed Case of the United States,[2]) accompanied by the documents, official correspondence, and other evidence on which they rely.

The Tribunal of Arbitration thereupon directed that the respective Counter-Cases, additional documents, correspondence and evidence called for or permitted by the IVth Article of the Treaty, should be delivered to the Secretary of the Tribunal at the Hall of the Conference at the Hotel de Ville at Geneva, for the Arbitrators and for the respective Agents on or before 15th day of April next.

The Arbitrators further directed that either party desiring, under the provisions of the IVth Article of the Treaty, to extend the time for delivering the Counter-Cases, documents, correspondence, and evidence, shall make application to them through the Secretary, and that the Secretary shall thereupon convene a Conference at Geneva, at an early day, to suit the convenience of the respective Arbitrators, and that due notice thereof shall be given to the Agent of the other party.

The Tribunal of Arbitration proceeded to direct that applications by either party, under the provisions of the IVth Article of the Treaty, for copies of Reports or documents specified or alluded to and in the exclusive possession of the other party, shall be made to the Agent of the other party with the same force and effect as if made to the Tribunal of Arbitration.

The Tribunal of Arbitration further directed that, should either party, in accordance with the provisions of the IVth Article, call upon the other party through the Arbitration, to produce the originals or certified copies of any papers adduced as evidence, such application shall be made by written notice thereof to the Secretary within thirty days after the delivery of the cases, and that thereupon the Secretary shall transmit to the Agent of the other party a copy of the request; and that it shall be the duty of the Agent of the other party to deliver said originals or certified copies to the Secretary, as soon as may be practicably convenient.

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[1]) S. die folgende Nummer.

[2]) S. Staatsarchiv Bd. XXII Nr. 4625.

The Arbitrators also agreed that, for the purpose of deciding any question arising upon the foregoing rules, the presence of three of their number shall be sufficient.

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The Conference was adjourned to the following day, the 16th of December, at 3 o'clock p. m.

Frederic Sclopis.
Alex. Favrot, Secretary.

Tenterden.
J. C. Bancroft Davis.

Nr. 5021.

GROSSBRITANNIEN. — Case presented on the part of the Government of Her Britannic Majesty to the Tribunal of Arbitration.

PART I.

Statement of the Matter referred to the Arbitrators, as it is understood by the Government of Her Britannic Majesty.

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The Government of Her Britannic Majesty, in proceeding to state, for the information of the Tribunal of Arbitration, the facts and arguments which appear material to a just adjudication on the claims to be presented by the Government of the United States, finds it necessary to remark, in the first place, that no definite and complete statement of those claims, with the grounds on which they are founded, has ever been furnished by the latter Government. A general definition of them is, however, supplied by the terms of the Reference to Arbitration contained in Articles I to XI of the Treaty of Washington (8th May, 1871), coupled with the previous correspondence between the two Governments. . . . .

The claims, then, which are referred to the Tribunal, are "claims growing out of the acts" of certain vessels, in respect of which the Government of the United States alleges that Great Britain has failed to fulfil some international duty. The duties specifically mentioned, and to which the attention of the Tribunal is directed, are duties to be performed by a "neutral Government," as such. As to each vessel separately, the Tribunal is to determine whether there has or has not been any failure of duty on the part of Her Majesty's Government. If, in the judgment of the Tribunal, there has been such a failure in respect of any specified vessel or vessels, the Tribunal may adopt, at its discretion, either of two courses. It may, on the one hand, award such a gross sum as the Arbitrators may deem just to be paid

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by Great Britain, in full satisfaction of all well-founded claims on the part of the United States, "growing out of the acts" of the vessel or vessels in respect of which there has been a failure of duty; or, on the other hand, it may content itself with deciding, as to each or any vessel in respect of which there has been a failure of duty, the measure or extent of the liability which on general principles may justly be deemed to have been incurred by such failure. In the event of the second course being chosen, the office of examining and adjudicating on the validity of particular claims "growing out of the acts" of the specified vessel or vessels, and of fixing the sum or sums of money to be paid on account of each, according to the measure of liability laid down by the Tribunal, is remitted to a Board of Assessors, for constituting which provision is made by Article X. || In effect, therefore, the Tribunal is called upon to determine whether, in respect of certain vessels not designated by name, the Government of Great Britain, as a neutral Power, has made default in the performance of any international obligation due from that Power to the United States. Should this question be answered in the affirmative, the Tribunal is then to form a judgment on the extent of the liability, if any, incurred by the default, and is either to award a gross sum in satisfaction of all just claims, or to define the general limits of the liability as to each vessel, for the guidance of the Assessors. The claims which may be presented to the Tribunal, and to which alone it is to have regard in making its award, are claims "growing out of the acts" of the vessels (if any) in respect of which a failure of duty shall beproved. || The vessels to which this inquiry relates are (as has been already remarked), not designated in the Treaty by name; they are only indicated by reference to a particular class of claims, to which their "acts" are said to have given rise. These claims are assumed in the Treaty to have become familiar to both Governments, in the course of the correspondence which has passed between them, under the general title of the "Alabama Claims." They are assumed to form a distinct class, well known, and easily separable from the mass of miscellaneous claims arising from other sources, for which latter a different mode of settlement is provided by Articles XII to XVII of the Treaty. The Alabama was a vessel which sailed from the port of Liverpool, under circumstances which will be stated below, and was afterwards employed as a cruizer in the naval service of the Confederate States. The phrase "The Alabama Claims" is understood by Her Britannic Majesty's Government to embrace all claims "growing" (to use the language of the Treaty), "out of acts committed" by this vessel, and by other vessels which are alleged to have been procured, like the Alabama, from British ports during the war, and under circumstances more or less similar, and to be confined to such claims. The only vessels in respect of the acts of which claims have been made by the Government of the United States on that of Her Britannic Majesty, either during the Civil War, or in the six years which have elapsed

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since its termination, are the Alabama herself, and the vessels formerly known as the Florida, Georgia, and Shenandoah. On one occasion, indeed, since the close of the war, namely, in a despatch dated 27th August, 1866, and communicated by the Minister of the United States to Her Majesty's Government, mention was made of a vessel called the Sumter, as one of those in respect of which the Government of the United States conceived itself to have claims against Great Britain. But no claims in respect of the Sumter were in fact included in the detailed list which was inclosed in that despatch and then presented to Her Britannic Majesty's Government, nor have any such claims been presented before or since. Nor is Her Britannic Majesty's Government aware of any grounds on which such claims could be made with any show of reason. Her Britannic Majesty's Government is therefore entitled to assume that the claims referred to the Tribunal are claims "growing out of the acts" of the four vessels above-named, or of some or one of them. The circumstances under which these four vessels respectively sailed from British ports, and came into the possession of the Government of the Confederate States, and the considerations which the Tribunal will be called upon to apply to them respectively, are, as will hereafter be seen, dissimilar in very material respects. Her Britannic Majesty's Government, however, maintains that in respect of none of them was there, on its part, any failure in the discharge of international obligations rendering Great Britain justly liable to make reparation to the United States for acts committed by them, or by the persons in whose possession they respectively were, out of the jurisdiction of the British Crown. For the guidance of the Tribunal in adjudicating on the questions submitted to it, three "rules" have been laid down, which, by agreement between the two Governments, are to be taken as applicable to the case, and to be reciprocally observed in future by Great Britain and the United States. These rules purport to lay down certain specific obligations incumbent in time of war on neutral Powers. By them, and by such principles of international law not inconsistent with them as the Tribunal shall determine to have been applicable to the case, the Tribunal is to be governed. Her Britannic Majesty's Government has declined to give its assent to these rules as a statement of principles of international law which were actually in force at the time when the claims now submitted to arbitration arose. But by Her Britannic Majesty's Government, as well as that of the United States, they are believed and intended to be not at variance but in substantial accord with the general principles of that system by which both Powers alike hold themselves bound, which they alike desire to preserve sacred and inviolate, and from the dominion of which neither of them proposes to withdraw the questions that have unhappily arisen between them. Accepting the rules sincerely and without reserve, in the manner expressed in the VIth Article of the Treaty, Her Britannic Majesty's Government will assume (as is, indeed, clearly implied in the terms of that Article) that they are to be construed with

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reference to, and in connection with, that long-established body of international rules and usages which was and still is common to Great Britain and the United States with other civilized peoples.

PART II.

Statement of Events which attended and followed the Commencement of the Civil War, and of the Course pursued in relation to it by Great Britain and other Maritime Powers.

Before approaching the cases of the vessels to which the claims in question are understood to relate, it is necessary to state concisely the previous course of events, and to place clearly before the Tribunal the course of conduct which had been pursued during the earlier period of the war by Her Britannic Majesty's Government.

General Propositions.

The following propositions are believed by Her Majesty's Government to be in accordance with the principles of international law and the practice of nations: — || 1. It is the duty of a neutral Government, in all matters relating to the war, to act impartially towards the belligerent Powers; to concede to one what it concedes to the other; to refuse to one what it refuses to the other. || 2. This duty, inasmuch as it flows directly from the conception of neutrality, attends the relation of neutrality wherever it exists, and is not affected by considerations arising from the political relation which before the war the belligerents may have sustained to one another. || 3. Maritime war being carried on by hostilities on the high seas, and through the instrumentality (ordinarily) of vessels commissioned by public authority, a neutral Power is bound to recognize, in matters relating to the war, commissions issued by each belligerent, and captures made by each, to the same extent and under the same conditions as it recognizes commissions issued and captures made by the other. || 4. Where either belligerent is a community or body of persons not recognized by the neutral Power as constituting a sovereign State, commissions issued by such belligerent are recognized as acts emanating, not indeed from a sovereign Government, but from a person or persons exercising *de facto*, in relation to the war, the powers of a sovereign Government.

[Folgt eine kurze Darstellung der Anfänge des Bürgerkriegs.]

Neutrality of the Maritime Powers.

The maritime Powers, on receiving information of the outbreak of the war, resolved to maintain a strict and impartial neutrality to their relations with the belligerents, holding that it did not belong to them, as Governments,

to decide on the questions which had unhappily divided the American people, nor to take any part in the contest on which the future of the American Commonwealth appeared to depend. ‖ Of all the nations of the world Great Britain, by reason of her geographical position, the activity of her manufacturing and trading industries, her vast commerce with America, the extent and number of her Transatlantic possessions, the magnitude of her military and commercial marine, and its dispersion not only over the seas bordering on the American coast but over every part of the world, was the Power most immediately and profoundly affected by a civil war in the United States. The European Power which, after Great Britain, possessed the largest marine was France. ‖ On the 14th May, 1861, Her Britannic Majesty's Government issued the following Proclamation, intended for the information of the officers of the Government and of British subjects in general: —

[Folgt die Englische Neutralitäts-Proclamation. S. Staatsarchiv Bd. I Nr. 57.]

This Proclamation was published fourteen days after the receipt in London of the news that Fort Sumter had been reduced by bombardment, that the President of the United States had called out 75,000 men, and that Mr. Jefferson Davis had taken measures for issuing letters of marque; twelve days after receipt of intelligence that President Lincoln had published a Proclamation of blockade; nine days after a copy of that Proclamation had been received from Her Britannic Majesty's Consul at New York; and three days after the same Proclamation had been officially communicated to Her Majesty's Secretary of State for Foreign Affairs by the United States' Minister, Mr. Dallas. ‖ On the 1st June, 1861, Her Britannic Majesty's Government issued orders by which the armed ships of both belligerents, whether public ships of war or privateers, were interdicted from carrying prizes made by them into the ports, harbours, roadsteads, or waters of the United Kingdom, or of any of Her Majesty's Colonies or Possessions abroad. ‖ The Government of the Confederate States remonstrated warmly against these orders, as practically unequal in their operation, and unduly disadvantageous to the belligerent whose ports were blockaded. The Secretary of State of the United States expressed his satisfaction with them, as likely to "prove a death-blow to Southern privateering". ‖ These orders were strictly enforced throughout the whole period of the war, and no armed vessel was suffered to bring prizes into any British port.

[Folgt die Darlegung der Neutralitätsmassregeln anderer Staaten.]

The Sumter.

Of the armed ships sent to sea by the Confederate States during the first year of the war, two only, the Sumter and Nashville, entered any port belonging to a European Power. It is necessary to state briefly the circumstances which

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occurred in relation to these vessels. || The Sumter was a steam-ship which had been purchased by the Navy Department of the Government of the Confederate States, was commissioned as a public ship of war in the service of those States, and was commanded by an officer who had previously held a Commission in the Navy of the United States. It appears from the Message of Mr. Jefferson Davis, dated 29th April, 1861, and hereinbefore referred to, that she had at that date been purchased and manned, and was being actively prepared for sea. She sailed from the Mississippi River on the 30th June, 1861, cruized for six months, and captured seventeen prizes. || In the course of this cruize she entered (in the order herein named) ports within the dominions of the following Sovereigns and States, namely the Queen of Spain, the King of the Netherlands, the Republic of Venezuela, the Queen of Great Britain, the Emperor of Brazil and the Emperor of the French. She obtained coal and supplies in the ports of Cienfuegos, Curaçao, Paramaribo, Trinidad, and Martinique successively. . .

Before arriving at Paramaribo the Sumter had visited Puerto Caballo, in Venezuela, and the British island of Trinidad. She remained in port, at the latter place, during six days, and purchased from private merchants coal and provisions. Her Commander had applied for permission to purchase coal from the Government stores; but this had been refused by the Governor. || With reference to these facts the subjoined correspondence passed between the Government of the United States, through its Minister in London (Mr. Adams) and the Government of Her Britannic Majesty: —

[Folgt die betreffende Correspondenz.]

With the view of preventing the recurrence of similar complaints in future, and also of preventing as far as might be the possibility of any abuse of the asylum granted in British ports (as in those of other neutral Powers) to belligerent vessels, the British Government on the 31st of January, 1862, issued the subjoined Orders, to be observed in all the ports of the United Kingdom and those of Her Majesty's transmarine territories and possessions: —

[Folgen die Orders. S. Staatsarchiv Bd. II Nr. 208.]

By the first and second of the foregoing Orders belligerent vessels were absolutely excluded from the ports, roadsteads, and waters of the Bahama Islands, except in case of stress of weather or of special leave granted by the Lieutenant-Governor. These islands being very near to the American coast, access to them was of little importance to the armed vessels of the United States, unless under stress of weather; whilst to vessels of the Confederate States it was of great importance, the harbours of these States being generally, though not always, effectively blockaded. || The Orders thus issued by Her Britannic Majesty's Government were more stringent and comprehensive by far than those of any other neutral Government. It was not the fact that in the ports of the French Empire, or in those of other neutral Powers generally, belligerent vessels entering without prizes were prohibited from

remaining more than twenty-four hours or from purchasing supplies other than arms and military supplies. . . . .

On the 18th of January, 1862, the Sumter arrived at Gibraltar. The American Consul at that port immediately addressed a letter to the Governor, informing him of the fact, and expressing a hope that he would "give such orders as may prevent this rebel cruizer from obtaining the necessary facilities, and making equipments for the continuance of her unlawful vocation." . . .

On the 12th February, 1862, the United States' war-steamer Tuscarora arrived at Gibraltar, and proceeded to coal at the neutral port of Algeciras. She was soon afterwards joined by the United States' war-steamer Ino, and subsequently by the Kearsarge; and the Ino and Kearsarge remained off Algeciras waiting to intercept the Sumter. The Sumter was paid off in April, and lay in harbour till December 1862, when she was sold by public auction (after having been first deprived of her armament) to a British subject resident at Liverpool. The United States' Consul addressed to the Governor a protest against the sale, on the ground, first, that the Sumter had come into the possession of the Confederate Government as a prize of war (which was proved not to be the fact, the vessel having been purchased by that Government from a private owner), and secondly, that the sale was made "for the purpose of avoiding a capture by the cruizers of the United States". This protest was not accompanied by any proofs, but notice of it was officially published by the Colonial Secretary before the day fixed for the sale. . . . . . .

The course pursued by Her Majesty's Government in this case was adhered to in 1864 in the case of the Confederate ship Georgia. It was afterwards judged expedient by the Government to prohibit vessels of war belonging to either belligerent from being dismantled or sold in British ports. ‖ It is not the duty of a neutral Government to prohibit the sale within its territory of a ship owned by a belligerent to a neutral purchaser. This is a transaction which in no way concerns the neutral Government, and with which it cannot be called upon to interfere. Under certain circumstances indeed — as in the case of a ship of war driven by superior force to take refuge in a neutral port — such a sale may be liable to be declared void by a prize court of the other belligerent. But this is a jurisdiction exercised by prize courts alone. Until so set aside, the sale (even in the case supposed above) is valid everywhere, and operates to transfer the property to the neutral purchaser. Nor again can a neutral Government be called upon to apply rules applicable exclusively to vessels of war to a vessel which, having originally been armed for war, has been disarmed and sold as aforesaid, unless it clearly appear that the sale was a fictitious transaction, intended to disguise, without altering, the true character of the ship.

The Nashville.

The Nashville, an armed steamer commissioned as a ship of war of the Confederate States, arrived at the British dependency of Bermuda on the

30th October, 1862, having sailed from Charleston on the 26th. Her Commander applied for leave to draw a supply of coals from Her Majesty's dockyard, but this request was refused. She procured coal from a private yard and sailed on the 4th November. On the 21st November she entered the harbour of Southampton, having, on her way, taken and destroyed an American packet-ship (the Harvey Birch), and on the 22nd went into dock for repairs. On the same day directions were sent from the Foreign Office that she "should not be allowed to equip herself more completely as a vessel of war, or to take in guns or munitions of war".

[Folgt die Correspondenz hierüber.]

General Course pursued by Her Britannic Majesty's Government, and by other Maritime Powers in regard to the reception of Belligerent Cruizers.

From the beginning of the war to the end of it, Her Britannic Majesty's Government scrupulously observed, in respect of vessels entering British ports or waters under the flag of either belligerent, the duties of a neutral Power. The cruizers of both were admitted upon the same terms; and the regulations which it was found necessary to make from time to time in order to prevent the hospitality thus accorded from being abused, whether by design or through inadvertence, were impartially applied to both. Unremitting care and vigilance were employed to prevent these necessary precautions from being infringed or eluded, and especially to prevent any belligerent vessel from engaging in hostilities, or from enlisting seamen or otherwise increasing its military force, within British territory, or using such territory as a station from whence to observe and attack enemy's ships. The difficulties occasioned, especially in Her Majesty's Colonial possessions, by the resort of belligerent cruizers to British ports and waters, were considerable, and called for the exercise of much judgment and moderation on the part of the local authorities. By United States' cruizers the ports and waters of Her Majesty's dominions were resorted to for coaling and other purposes more frequently than by vessels of the Confederate States. The impartial neutrality maintained in these respects by Her Majesty's Government was nevertheless made a frequent subject of complaint by the Government of the United States, which continued to insist that Confederate vessels ought to have been treated as piratical, or at least excluded altogether; whilst the Confederate States, on their part, complained that the regulations enforced were unequal in operation, and unduly disadvantageous to a belligerent whose ports and coasts were under blockade. || The neutrality observed by Great Britain was observed also throughout the war by other maritime Powers. By them, as by Great Britain, the armed vessels of both belligerents were admitted impartially and indifferently into their ports, subject to such regulations and conditions as they respectively judged it expedient to impose for their own protection, and to prevent their hospitality from being abused.

PART III.

Statement on International Rights and Duties; on the Powers which were possessed by Her Britannic Majesty's Government of preventing unlawful Equipments and the Manner and Circumstances in and under which these Powers were exercised during the War.

With a view to enable the Tribunal to form a just appreciation of the circumstances under which certain vessels were procured from ports in Great Britain by the Government of the Confederate States, it will be proper to state, in the first place, some general propositions, applicable to the subject, which are believed by Her Britannic Majesty's Government to be in accordance with international law and practice; secondly, to explain the means of prevention which were at the command of Her Majesty's Government; and, thirdly, to describe in some detail the manner in which those means of prevention were exercised during the war.

General Propositions.

Her Britannic Majesty's Government believes the following propositions to be in accordance with the principles of international law and the practice of nations: — || 1. A neutral Government is bound to exercise due diligence, to the intent that no place within its territory be made use of by either belligerent as a base or point of departure for a military or naval expedition, or for hostilities by land or sea. || 2. A neutral Government is not, by force of the above-mentioned obligation or otherwise, bound to prevent or restrain the sale within its territory, to a belligerent, of articles contraband of war, or a manufacture within its territory of such articles to the order of a belligerent, or the delivery thereof within its territory to a belligerent purchaser, or the exportation of such articles from its territory for sale to, or for the use of, a belligerent. || 3. Nor is a neutral Government bound, by force of the above-mentioned obligation or otherwise, to prohibit or prevent vessels of war in the service of a belligerent from entering or remaining in its ports or waters, or from purchasing provisions, coal, or other supplies, or undergoing repairs therein; provided that the same facilities be accorded to both belligerents indifferently; and provided also that such vessels be not permitted to augment their military force, or increase or renew their supplies of arms or munitions of war, or of men, within the neutral territory. || 4. The unlawful equipment, or augmentation of force, of a belligerent vessel within neutral waters being an offence against the neutral Power, it is the right of the neutral Power to release prizes taken by means or by the aid of such equipment or augmentation of force, if found within its jurisdiction.

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|| 5. It has been the practice of maritime Powers, when at war, to treat as contraband of war vessels specially adapted for warlike use and found at sea under a neutral flag in course of transportation to a place possessed or occupied by a belligerent. Such vessels have been held liable to capture and condemnation as contraband, on proof in each case that the destination of the ship was an enemy's port, and provided there were reasonable grounds for believing that she was intended to be sold or delivered to or for the use of the enemy. || 6. Public ships of war in the service of a belligerent, entering the ports or waters of a neutral, are, by the practice of nations, exempt from the jurisdiction of the neutral Power. To withdraw or refuse to recognize this exemption without previous notice, or without such notice to exert, or attempt to exert, jurisdiction over any such vessel, would be a violation of a common understanding, which all nations are bound by good faith to respect. || 7. A vessel becomes a public ship of war by being armed and commissioned, that is to say, formally invested by order or under the authority of a Government with the character of a ship employed in its naval service and forming part of its marine for purposes of war. There are no general rules which prescribe how, where, or in what form the commissioning must be effected, so as to impress on the vessel the character of a public ship of war. What is essential is, that the appointment of a designated officer to the charge and command of a ship likewise designated be made by the Government, or the proper Department of it, or under authority delegated by the Government or Department, and that the charge and command of the ship be taken by the officer so appointed. Customarily, a ship is held to be commissioned when a commissioned officer appointed to her has gone on board of her and hoisted the colours appropriated to the military marine. A neutral Power may indeed refuse to admit into its own ports or waters as a public ship of war any belligerent vessel not commissioned in a specified form or manner, as it may impose on such admission any other conditions at its pleasure, provided the refusal be applied to both belligerents indifferently; but this should not be done without reasonable notice. || 8. The act of commissioning, by which a ship is invested with the character of a public ship of war, is, for that purpose, valid and conclusive, notwithstanding that the ship may have been at the time registered in a foreign country as a ship of that country, or may have been liable to process at the suit of a private claimant, or to arrest or forfeiture under the law of a foreign State. The commissioning Power, by commissioning her, incorporates her into its naval force; and by the same act which withdraws her from the operation of ordinary legal process assumes the responsibility for all existing claims which could otherwise have been enforced against her. || 9. Due diligence on the part of a sovereign Government signifies that measure of care which the Government is under an international obligation to use for a given purpose. This measure, where it has not been defined by international usage or agreement, is to be deduced from the nature

of the obligation itself, and from those considerations of justice, equity, and general expediency on which the law of nations is founded. ‖ 10. The measure of care which a Government is bound to use in order to prevent within its jurisdiction certain classes of acts, from which harm might accrue to foreign States or their citizens, must always (unless specifically determined by usage or agreement) be dependent, more or less, on the surrounding circumstances, and cannot be defined with precision in the form of a general rule. It would commonly, however, be unreasonable and impracticable to require that it should exceed that which the Governments of civilized States are accustomed to employ in matters concerning their own security or that of their own citizens. That even this measure of obligation has not been recognized in practice might be clearly shown by reference to the laws in force in the principal countries of Europe and America. It would be enough, indeed, to refer to the history of some of these countries during recent periods, for proof that great and enlightened States have not deemed themselves bound to exert the same vigilance and employ the same means of repression, when enterprises prepared within their own territories endangered the safety of neighbouring States, as they would probably have exerted and employed had their own security been similarly imperilled. ‖ 11. In every country where the Executive is subject to the laws, foreign States have a right to expect — ‖ (*a.*) That the laws be such as in the exercise of ordinary foresight might reasonably be deemed adequate for the repression of all acts which the Government is under an international obligation to repress; ‖ (*b.*) That, so far as may be necessary for this purpose, the laws be enforced and the legal powers of the Government exercised. ‖ But foreign States have not a right to require, where such laws exist, that the Executive should overstep them in a particular case, in order to prevent harm to foreign States or their citizens; nor that, in order to prevent harm to foreign States or their citizens, the Executive should act against the persons or property of individuals, unless upon evidence which would justify it in so acting if the interests to be protected were its own or those of its own citizens. Nor are the laws or the mode of judicial or administrative procedure which exist in one country to be applied as constituting a rule or standard of comparison for any other country. Thus, the rules which exist in Great Britain as to the admission and probative force of various kinds of testimony, the evidence necessary to be produced in certain cases, the questions proper to be tried by a jury, the functions of the Executive in regard to the prevention and prosecution of offences, may differ, as the organization of the magistrature and the distribution of authority among central and local officers also differ, from those which exist in France, Germany, or Italy. Each of these countries has a right, as well in matters which concern foreign States or their citizens, as in other matters, to administer and enforce its own laws in its own forum, and according to its own rules and modes of procedure; and foreign States cannot justly complain of this, unless it can be clearly shown

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that these rules and modes of procedure conflict in any particular with natural justice, or in other words, with principles commonly acknowledged by civilized nations to be of universal obligation. || In connection with the foregoing propositions are to be taken the three Rules stated in Article VI of the Treaty, and accepted by Her Britannic Majesty's Government in the manner expressed in that Article.

Neutrality Laws — Law of the United States.

The case of a vessel which is dispatched from a neutral port to or for the use of a belligerent, after having been prepared within the neutral territory for warlike use, is one which may be regarded from different points of view and may fall within the operation of different principles. The ship herself may be regarded merely as an implement or engine of war, sold or manufactured to order within neutral territory, and afterwards transported therefrom, and the whole transaction as falling within the scope of the principles applicable to the sale, manufacture, shipment, and transportation of articles contraband of war; or, on the other hand, the preparation and despatch of the ship may be viewed as being really and in effect the preparation and commencement of a hostile expedition. The circumstances of each case can alone determine from which of these two points of view it may most fitly be regarded, and to which class the transaction ought to be assigned. But the difficulty of drawing a clear, precise, and intelligible line between these two classes of transactions has always been considerable in theory, and still greater in practice; and it was enhanced to the utmost during the Civil War by the ingenuity and audacity of American citizens, who were engaged in carrying on hostilities against the Government of the United States, and were desirous of availing themselves for this purpose of the shipbuilding and manufacturing resources of Great Britain. This will sufficiently appeare from the narrative which follows, and it will be seen also how serious and incessant were the trouble and embarrassment which these enterprises occasioned to Her Majesty's Government. It is by the many difficulties encountered and by the experience acquired during the war that Her Majesty's Government was finally led to the conclusion that it was expedient not only to enlarge the scope of its municipal law in relation to this subject beyond what has hitherto been deemed necessary in any other country, but further, to accept for itself, and propose to other Powers, rules of international obligation somewhat more stringent and comprehensive than are to be found in earlier expositions of the law of nations. || The acts of which the Government of the United States is understood to complain belong to a class which have not commonly been made an object of prohibitory legislation. In few countries, or in none, according to the information received by Her Britannic Majesty's Government, did the law directly prohibit such acts, or make any definite provision for preventing them, at the time when this war began, except in the United States and Great Britain. Laws are not made till the

necessity for them has arisen. In the United States the necessity arose at a very early period in the history of that Commonwealth, and has again repeatedly presented itself at various times. The first maritime war in which the United States held the position of a neutral Power was that which commenced in 1793, when the French Republic declared war against Great Britain and against the United Provinces of the Netherlands. Within three months after the declaration of war several privateers had been procured, equipped, armed and commissioned in ports of the United States, to cruize under the French flag against the commerce of Great Britain, with which the United States were at peace. They were not only fitted out in American ports, but were owned, officered, and manned in large proportion by American citizens. The measures adopted by the Executive of the United States to restrain these enterprises proved inadequate; they were renewed from time to time, and the persons who took part in them were not punished; and on the 5th June, 1794, an Act of Congress, intituled "An Act in addition to the Act of the Punishment of Certain Crimes against the United States" was passed, for amending the law in this respect. This Act was a temporary one, to continue in force for two years, and thenceforth until the end of the then next session of Congress. Its provisions were re-enacted on the 2nd March, 1797, and were made perpetual by an Act of Congress passed on the 24th April, 1800. It was not completely effectual. From the published reports of cases decided in the American Courts, it appears that depredations on British commerce were again and again committed by French privateers, subsequently fitted out and armed for war in ports of the United States.

[Folgt weitere Darlegung der Amerikanischen Gesetzgebung und der zahlreichen Verstösse gegen dieselbe].

It is needless here to refer particularly to more recent instances of vessels fitted out in ports of the United States for expeditions against countries with which the United States were at peace. These instances are well-kown. ‖ In referring to the facts mentioned above it is by no means the intention of Her Majesty's Government to cast any reproach upon the Government or people of the United States. Prohibitory laws directed against offences of this kind are liable to be evaded or infringed without fault on the part of the Government; and they have accordingly been infringed in the United States by acts much more flagrant than any of those now charged against Great Britain. The enforcement of such laws is indeed beset by special difficulties. It is usually difficult to ascertain the existence of an unlawful intention. The class of acts which they prohibit are easy to conceal or disguise; the occasions which call them into operation occur but seldom; and when these occasions arise, it becomes needful either to create a special machinery for the purpose, or to rely upon the officers entrusted with the execution of the ordinary laws of trade and navigation — laws which are framed on the principle of avoiding as much as possible all minute scrutiny

and unnecessary interference. || Many cases of alleged violations of the Acts hereinbefore mentioned, have been brought before Courts of the United States, and various parts of them have received from those Courts a judicial interpretation. These interpretations have been, and still are, regarded as authoritative expositions of the law of the United States bearing on this subject. || It results from the foregoing statement — || 1. That the law of the United States regarding this matter arose out of the prevalence within the United States of the acts which it was designed to prevent, and that it has been altered and amended in order to prevent more effectually the recurrence of those acts. || 2. That it has existed in its present form for more than fifty years; that in the course of that time recourse has frequently been had to it; and that it has always been held, and is now held, by the Legislative authority in the United States to be adequate for its purpose. || 3. That, notwithstanding this law, vessels have from time to time been fitted out and armed within the United States, to cruize and commit hostilities against nations with which the United States were at peace, and that severe losses and injuries have been inflicted on those nations by the depredations of such vessels. || Further, it has been constantly held and maintained by the United States (and particularly during the discussions with Spain and Portugal above referred to), that the powers possessed by the Government of the United States to prevent the fitting-out of vessels within the territory of the Republic, were such only as could be shown to be actually vested in the Government by the laws and constitution of the United States in force for the time being; and that, provided those powers had been *bonâ fide* exercised, the United States were not responsible for any losses, however severe, inflicted by any vessel or vessels, however numerous, fitted out and armed within their territories. || It has been the practice of the Executive authorities of the United States, in enforcing the law, to act upon information laid before them by Consuls of foreign Powers, or other persons interested officially or otherwise in preventing the acts prohibited by the law, and to require the persons furnishing such information to produce evidence in support of it; and the importance of such information, to enable the neutral Power to intervene in proper cases, was expressly pointed out in the letter of Mr. Jefferson to Mr. Hammond of the 5th September, 1793, annexed to the Treaty of the 19th November, 1794, between the United States and Great Britain.

Law of Great Britain.

The Law of Great Britain on this subject was, at the time of the happening of the events out of which the questions submitted to the Arbitrators arose, embodied in an Act of Parliament passed in the year 1819, and intituled "An Act to Prevent the Enlisting or Engagement of His Majesty's Subjects to serve in Foreign Service, and the Fitting out or Equipping, in

His Majesty's Dominions, Vessels for Warlike Purposes without His Majesty's License." This Act is commonly referred to as the "Foreign Enlistment Act". At the time when it was proposed to Parliament, it was reported and believed that expeditions were being prepared in England for the assistance of the Spanish-American Colonies, which were then at war with their mother-country. The circumstances, therefore, which gave rise to the pâssing of the British law, were similar to those which gave rise to the passing of the corresponding laws in the United States, with the difference that in the United States armed vessels had actually been fitted out, and had actually committed hostilities and depredations against the commerce of a friendly Power, whereas in Great Britain it was only apprehended that some vessels were about to be fitted out and dispatched with a like purpose. || The Legislature of Great Britain, in framing the law of 1819, appears to have adopted as its model the law which had been passed by the Congress of the United States in the preceding year. The British Act is, however, as regards the matters now in question, more stringent, rigorous, and comprehensive than that of the United States. . . . .

During the forty-two years which elapsed between the passing of the Act of 1819 and the year 1862, only one case founded on an alleged violation of that Act appears to have been brought to trial before a Court. This was a criminal prosecution on a charge of having fitted out in England in the year 1849, during a civil war in the Kingdom of the Two Sicilies, a ship intended for the naval service of persons in arms against the Government of that Kingdom. || It results from the foregoing statements that the law of Great Britain, as it existed at the time of the Civil War in the United States, was such as in the exercise of due foresight might reasonably be deemed adequate for enabling the British Government to perform its obligations as a neutral Government. It was modelled upon the law of the United States, which had long existed and had frequently been brought under consideration in the Courts of that country; it equalled that law and even surpassed it in stringency; and offences against it (if any there were) had been so rare as to have left hardly any trace in the judicial records of Great Britain. || The functionaries to whom the power of seizing vessels for contraventions of the Foreign Enlistment Act was committed by law, were the officers of the Customs stationed at the several ports of the United Kingdom. These officers are under the direction of the Commissioners of Customs resident in London, who are themselves under the general superintendence and control of the Lords Commissioners of the Treasury of Finance Department of Her Majesty's Government. || The police or peace-officers charged with the prevention and detection of crimes and offences in general within the United Kingdom are under the control of the local authorities in the several counties and boroughs under the general supervision of the Secretary of State for the Home Department. || The official advisers of the Government on questions of law are the

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Attorney-General, the Solicitor-General and the Queen's Advocate. To these functionaries (whom it is usual to designate collectively as the "Law Officers of the Crown") the Government refers for advice on such questions of law as may arise in the administration of public affairs, and it guides itself by their advice in dealing with such questions. || To the foregoing statement respecting the law of Great Britain so far as it specifically relates to the matters now in question, it is proper to add that, according to the general principles of the constitutional law of the Kingdom — || 1. The Executive cannot deprive any person, even temporarily, of the possession or enjoyment of property, nor subject him to bodily restraint, unless by virtue and in exercise of a power created and conferred on the Executive by law. || 2. No person can be visited with a forfeiture of property, nor subjected to any penalty, unless for breach of a law, nor unless such breach can be proved to the satisfaction of a competent legal Tribunal, by testimony given on oath in open Court, subject to the rules of procedure established here for the due administration of justice. Every witness is liable to be cross-examined by the accused party or his advocate. || 3. No person can be compelled to answer a question put to him in a Court of law if the question is such that, by answering it, he would incur the risk of a penalty or of a prosecution before a criminal Tribunal. Statements on hearsay are not admissible as evidence. These general principles apply equally, whether the object sought to be attained be the prevention or punishment of an injury to the State, or to any citizen of the State, or to any other person or persons whomsoever. It may be further observed that during the whole period to which the questions submitted to the Arbitrators relate, every case of alleged infringement of the British Foreign Enlistment Act, brought to trial within the United Kingdom, was required to be proved to the satisfaction of a jury.

Effect of the Blockade.

After these observations on the nature, extent, and limitations of the powers of prevention which by the laws and constitution of Great Britain were vested in Her Majesty's Government, it will be convenient to state the circumstances in the midst of which the Government was called upon to exercise those powers during the war. || It has been mentioned above that one of the first acts of the Government of the United States, after the outbreak of the war, was to set on foot a general blockade of the ports, harbours, and sea-coasts of the Confederate States. These States being hemmed in to the landward on every side, except on the remote southern frontier of Texas, by States which remained faithful to the Union, it was designed by this blockade to cut them off entirely from all traffic and intercourse with neutral countries, especially those from which the people of the South had been accustomed to draw their supplies of manufactured goods, and to which they

had been wont to export vast quantities of raw produce. It was not only a commercial blockade on a prodigious scale; it was much more It was a blockade which, so far as it was successful, shut up and isolated a population of many millions, inhabiting a vast territory and accustomed to export and import largely, from all external commerce whatsoever. At the same time the blockade itself was for a long time very imperfectly maintained, the navy of the United States being quite inadequate for the purpose and needing to be supplemented by vessels of all kinds hastily procured, and the fleet thus composed being distributed along an immense coast-line. These facts are notorious. || It is evident that a blockade of this character offered extraordinary inducements, not only to the people of the Confederate States themselves, but to traders in Europe, to use every effort in order to elude it wherever an opening could be discovered. Accordingly, in the year 1862, an active traffic began to be carried on with some of the blockaded ports; and for the purposes of this traffic it was found profitable to procure or construct vessels of a peculiar class, specially adapted for speed and for protection against the fire of blockading squadrons, and differing in various ways, externally and internally, from ships employed in ordinary trade. Recourse was had, for this purpose, to the ports and building-yards of Great Britain, which are accustomed to supply shipping to purchasers of all countries, and are the principal seat of this kind of industry. || Her Majesty's Government, though aware that the blockade was for a considerable time not completely effective, and though frequently urged to disregard it, both by the Confederate States and by persons desirous of trading with them, refused to do so, and recognized it from first to last. British subjects who attempted to trade with the blockaded ports were warned by Her Majesty's Proclamation (issued at the commencement of the war) that they would incur the risk of the capture and confiscation of their property, and that against that risk their Government would not protect them. On the other hand, the Government neither did nor could — forcibly or by process of law — prohibit its subjects, or persons within its dominions, from engaging in such trade, or from selling, or constructing, or purchasing vessels adapted for that purpose. Such a course, indeed, would have been not only a departure from the ordinary practice and usage of neutral nations, but in conflict with those considerations of general expediency on which the rules of international law are founded. The right of blockade is a belligerent right, and the enforcement of it belongs to the belligerent, and not to neutral Powers. That blockades, to be binding, must be made effective by the blockading Power, is a settled and salutary rule; and this is indeed the sole protection of neutrals against an undue and extravagant extension of the right of blockade. It follows, of necessity, that to the exertions of the blockading Power, and to those alone, the task of making them effective must be left.

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Representations of Mr. Adams.

At all the principal sea-ports of Great Britain, the United States maintained Consuls or Consular officers. It was the duty of these officials, in their respective localities, to keep a watchful eye on whatever might tend to endanger the security or interests of the United States; to use the utmost diligence in informing themselves of any actual or contemplated violations of law which might prove injurious to those interests; to communicate their information to Mr. Adams, the Minister of the United States in London, and to act on such instructions as they might receive from him in matters within the range of their functions. And it was the duty of Mr. Adams, in all cases which, in his judgment, demanded action or inquiry on the part of the Government of Great Britain, to lay before that Government facts sufficient to call for and justify such action or inquiry. In the course of the years 1861, 1862, 1863, 1864, and 1865, many representations were addressed by Mr. Adams to Her Majesty's Government respecting vessels which he believed to be either actually employed in carrying on trade with blockaded ports in articles contraband of war or other things, or to be preparing for such employment; and also with respect to other vessels which he believed to be intended to be used as privateers or commissioned ships of the Confederate States in cruizing and carrying on war against the United States. To complaints of traffic carried on with blockaded ports, or in articles contraband of war, it was answered, on the part of Her Majesty's Government, that these were enterprises, which Her Majesty's Government could not undertake to prevent, and the repression of which belonged to the United States as a belligerent Power. Allegations, on the other hand, that vessels were being prepared for cruizing or carrying on war were immediately referred to the proper officers of the Government at the several localities for careful investigation and inquiry. If, on such investigation, it appeared by sufficient *primâ facie* evidence that any illegal act was being or had been committed, the vessels were forthwith seized, and proceedings instituted according to law; if not, the result was at once communicated to Mr. Adams, and directions were given to the local authorities to watch closely the vessels as to which his suspicions had been aroused.

[Folgt eine Specialaufzählung der einzelnen Fälle.]

Summary.

The preceding statement of facts shows the general course of conduct pursued by Her Britannic Majesty's Government, in relation to vessels alleged to be, or suspected of being, fitted out or prepared within British territory for belligerent use. It includes all the cases (except those of the Florida and Alabama, which will be presently stated), in which information that any

vessel was being built, equipped or prepared for sea in any British port, and intended, or supposed to be intended, for warlike use, was received by, or came to the knowledge of, Her Majesty's Government before the departure of such vessel. ‖ It will have been seen — ‖ 1. That in every case directions were given, without the least delay, for investigation and inquiry on the spot by the proper officers of Government; and these officers were ordered to keep a watchful eye on the suspected vessel; and the directions and orders so given were executed. ‖ 2. That in some cases the attention of the Government had been directed, before the receipt of any communication from Mr. Adams, to vessels as to which there appeared to be ground for suspicion. ‖ 3. That as soon as any evidence was obtained it was submitted, without delay, to the Law Officers of the Crown; and they were called upon to advise as to the proper course of proceeding. ‖ 4. That in every case in which reasonable evidence could be obtained the vessel was seized by the officers of the Government, and proceedings were instituted against her in the proper Court of law. By reasonable evidence is understood testimony which, though not conclusive, offered nevertheless a reasonable prospect that the Government might be able, when the time for trying the case should arrive, to sustain seizure in a Court of law. ‖ 5. That in several of the cases in which a seizure was made the Government found itself unable, or uncertain whether it would be able, to sustain the seizure by sufficient evidence, and was under the necessity of either releasing the vessel and paying the costs of the trial and detention, or of purchasing her at the public expence. ‖ 6. That in every one of the cases enumerated either the information furnished to the Government proved to be erroneous, and the supposed *indicia* of an unlawful intention to be absent or deceptive, or this intention was defeated or abandoned by reason of the measures taken and the vigilance exercised by Her Majesty's Government. ‖ 7. That it is easy to infer special adaptation for war from peculiarities or supposed peculiarities of construction which are really equivocal; and such inferences are liable to be fallacious, especially in cases where the vessel is constructed with a view to some employment which, though commercial, is out of the ordinary course of commerce.

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PART IV.

Considerations proper to be kept in view by the Arbitrators in reference to the Cases of the Florida, Alabama, Georgia, and Shenandoah.

In considering the facts about to be presented to the Tribunal relative to the four vessels which, after having been originally procured from British ports, were employed as Confederate cruizers in the war, it is right that the Arbi-

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trators should bear in mind the following propositions, to some of which their attention has already been directed in an earlier part of this Case: — 1. The powers possessed by Her Majesty's Government to prohibit or prevent the fitting out, arming, or equipping within its jurisdiction of vessels intended for the naval service of the Confederate States, or the departure with that intent of vessels specially adapted within its jurisdiction to warlike use, were powers defined and regulated by the Statute or Act of Parliament of July 3, 1819 (the Foreign Enlistment Act). ‖ 2. The modes of prevention provided by the Statute were two, of which both or either might be adopted as might be deemed most expedient, namely, (1), the prosecution of the offender by information or indictment; (2), the seizure of the ship, which, after seizure, might be prosecuted and condemned in the same manner as for a breach of the Customs or Excise laws, or of the laws of trade and navigation. ‖ 3. The persons empowered to seize under the provisions of the Statute were any officers of Customs or Excise or of Her Majesty's Navy who by law were empowered to make seizures for forfeitures incurred under the laws of Customs or Excise, or of trade or navigation; and the seizure was to be made in the same manner as seizures are made under those laws. ‖ 4. The Customs officers were not empowered by law to make a seizure until an information on oath should have been laid before them. Nor, without such an information on oath, had any Magistrate jurisdiction under the provisions of the Statute. ‖ 5. After a seizure made, it was by law necessary that proceedings for the condemnation of the vessel seized should be instituted in the Court of Exchequer and brought to trial before a jury. In order to obtain a condemnation it was necessary to prove two things, — ‖ (*a.*) That there had been in fact an equipping, furnishing, fitting-out, or arming of the vessel, or an attempt or endeavour so to do, or an issuing or delivery of a commission for the vessel, within the dominions of the Crown; ‖ (*b.*) That the act had been done with intent, or in order, that the vessel should be employed in belligerent operations as described in the 7th Section of the Statute. ‖ 6. By proof, in a British Court of law, is understood the production of evidence sufficient to create in the mind of the Judge or jury (as the case may be), a reasonable and deliberate belief, such as a reasonable person would be satisfied to act upon in any important concerns of his own, of the truth of the fact to be proved. And by evidence is understood the testimony, on oath, of a witness or witnesses produced in open Court, and subject to cross-examination, as to facts within his or their personal knowledge. Testimony which is mere hearsay, or as to the existence of common reports, however prevalent and however generally credited, or as to any matter not within the knowledge of the witness, is not admitted in an English Court. ‖ 7. In the judgment of Her Britannic Majesty's Government, and in that of its official advisers, the special adaptation of a vessel to warlike use was among the acts prohibited by the Statute, provided there were sufficient proof of an unlawful intent, although

the vessel might not be actually armed so as to be capable of immediate employment for war. But no Court of law had pronounced a decision on this point, and the question was never raised before any such Court until the trial of the case of the Alexandra in 1863.

Her Britannic Majesty's Government now proceeds to state for the information of the Tribunal the facts relative to the cases of the Florida and Alabama. It may be remarked that, when these cases were brought to the notice of Her Majesty's Government and up to the time of the departure of the Alabama from Liverpool, there had been no instance, from the commencement of the war, of a vessel ascertained to have been fitted out in, or despatched from, any British port for the purpose of engaging in hostilities against the United States. The only vessel to which the attention of Her Majesty's Government had been directed before the Florida had proved to be a blockade-runner. It may be added that the claims for the interference of Her Majesty's Government in the case of these and other vessels were based, according to the statement of Mr. Adams in his letter to Earl Russell, dated 9th October, 1862, on evidence considered by him to "apply directly to infringements of the Municipal Law, and not to anything beyond it."

PART V.

Statement of Facts relative to the Florida.

PART VI.

Statement of Facts relative to the Alabama.

PART VII.

Statement of Facts relative to the Georgia.

PART VIII.

Statement of Facts relative to the Shenandoah.

PART IX.

Recapitulation of Facts previously stated.

The statements of fact which have been placed before the Arbitrators may be recapitulated as follows. Of the four vessels in respect of which alone the United States have, up to this time, made claims against Great Britain, two—the Georgia and Shenandoah—were never, in any manner or degree, within the dominions of Her Majesty, fitted out, armed, or equipped for war, or specially adapted to warlike use. They were constructed and fitted in a manner suitable to merchant-ships. One of them—the Shenandoah—was not only built for a merchant-ship, but had been owned and used as such before she was purchased by the Government of the Confederate States;

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and her condition and equipment when she departed from Great Britain and when she came into the possession of the Government of the Confederate States, were, so far as appears, the same in all material respects as they had been when she was owned and employed as a trading vessel. This vessel, according to the evidence which has been brought to the knowledge of Her Majesty's Government, was sold and transferred to the Government of the Confederate States after she had departed from Her Majesty's dominions. || No information whatever respecting these two vessels respectively was conveyed to Her Britannic Majesty's Government by the Minister or Consular Officers of the United States, or came to the knowledge of that Government, until they had respectively departed from Her Majesty's dominions. Her Britannic Majesty's Government had no ground to believe or subject that they or either of them were or was intended to be delivered to the Government of the Confederate States or its officers, or employed in cruizing or carrying on war against the United States. If the Minister or Consuls of the United States had any such grounds of belief or suspicion, they were not communicated to the Government of Her Britannic Majesty. || The other two vessels—the Alabama and Florida—though suitable, by their construction, for vessels of war, were not armed for war when they respectively departed from the waters of the United Kingdom. They had then no armament whatever, and they did not receive any until after they had arrived at places very remote from Great Britain, and out of the control of Her Majesty's Government. || As to one of these two—the Florida—no information supported by evidence proving, or tending to prove, that she was intended to cruize or carry on war against the United States, was conveyed to or received by Her Britannic Majesty's Government previously to her departure from the United Kingdom. On her first arrival in a British Colony this vessel was seized under the authority of the Governor, but was released, for want of proof, by the Decree of a Court of competent jurisdiction. || The Florida, before engaging in any operation of war, entered a port of the Confederate States. She remained there for more than four months; she there enlisted and shipped a crew, and was put in suitable condition for cruizing, and she was from thence sent out to cruize. || In the case of one vessel only—the Alabama—admissible evidence tending to prove the existence of an unlawful intention was furnished to Her Britannic Majesty's Government before the departure of the ship. This evidence was supplied little by little, the last instalment of it being delivered on the fourth day before her departure. She put to sea unregistered and without a clearance, under the pretence that she was about to make a trial trip and return to her moorings. The circumstances under which the evidence relating to this vessel was received, referred to the Legal Advisers of the Government, and by them considered and reported on, are stated in Part VI of this Case. || All the information furnished by Mr. Adams to Her Majesty's Government, as well in relation to the Alabama

as in relation to each of the three other vessels hereinbefore specified, was referred by the Secretary of State for Foreign Affairs, with the utmost expedition, to the proper Departments of the Government, for inquiry, and in order that measures might be immediately taken, should occasion so require, for the due enforcement of the law. Inquiry was accordingly made in every case. In the cases of the Georgia and the Shenandoah, nothing could be done, since each of these vessels had already departed from Her Majesty's dominions. In that of the Florida no evidence of unlawful intention was or could be obtained whilst she was within the United Kingdom. In that of the Alabama, the persons having possession of the ship carried her to sea before the order for seizing her was given. ‖ In estimating the reasonableness of the views acted upon by Her Majesty's Government as to the sufficiency of the information and evidence from time to time submitted to them respecting apprehended infractions of the law by the construction and equipment of warlike vessels for the service of the Confederate States, it is necessary throughout to bear in mind not only that the trade of shipbuilding is a great and important branch of industry, which Her Majesty's Government was not required by any international duty to place under restrictions unauthorized by law, and over which it was not justified in assuming any arbitrary control, but also that the principal firms of British shipbuilders had been for a long time in the habit of entering into contracts with foreign Governments in all parts of the world for the construction, equipment, and sale of ships of war: such contracts being privately negotiated, in the ordinary course of business, without any power on the part of the Government to inquire into or interfere with them. No presumption, therefore, as to the real destination of any such vessel would in any case arise from the mere fact of her having a warlike character, although she might be in course of building during a state of war between particular Powers, while others were at peace. ‖ In the papers relating to the iron-clad rams at Liverpool, ample illustration will be found of the difficulties which were liable to arise from this state of things whenever it became necessary to prove the actual purpose for which a ship of this character was being constructed: difficulties which, in the end, rendered it ultimately advisable for Her Majesty's Government to pay a very large sum of money for the purchase of the rams rather than risk the uncertain result of a trial. ‖ The four vessels above specified were procured from British ports, or purchased from British owners, by the persons comprising the *de facto* Government of the Confederate States through their agents, and passed into the possession and control of that Government. After possession had been so acquired they were respectively armed for war by the orders of that Government, were commissioned as ships of war, and were commanded and officered by American citizens holding commissions in its naval service. ‖ The crews of these vessels were enlisted on the high seas or elsewhere out of the jurisdiction of Her Majesty's Government, and,

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in the case of the Florida, chiefly in a port of the Confederate States. They were composed partly of British subjects, whom the American officers induced by persuasion and by promises of reward to take service when at a distance from England. The solicitations of the American officers were sometimes successful in inducing British seamen to serve: sometimes they were exerted in vain. But the vessels were also manned to a considerable extent with Americans and others drawn from the crews of American ships captured by them; though it is right to add that in the case of some of the latter class who left the Shenandoah at Melbourne, it was alleged that threats and ill usage had been employed in order to induce them to join. || These vessels, after having been armed for war, were received as vessels of war in the ports of Great Britain as well as in those of the other neutral countries visited by them. In British ports they were received on the same footing as in those of other neutral nations, and were allowed to repair and purchase supplies on the same conditions as armed vessels of the United States, without favour or partiality, careful precautions being employed to prevent any renewal or augmentation of their warlike force within British waters. || No serious endeavours to intercept or capture any of these vessels, during the times of their respective cruises, appear to have been made by the Government of the United States; and the losses inflicted by them would probably have been in great measure averted had reasonable activity and diligence been exerted by that Government and its officers for that purpose. || The general course of Her Britannic Majesty's Government throughout the war was governed by a strict regard for the obligations of neutrality and a sincere desire to fulfil them; and this is apparent as well from the facts which have been stated in relation to the four vessels above specified, as from the other facts stated in the earlier parts of this Case. || Thus it has been seen — || That beside the Florida and Alabama, many other ships were believed and asserted by Mr. Adams to be fitting out in British ports for the purpose of carrying on war against the United States, and were made the subject of representations to Her Majesty's Government. || That in every case, without exception, the allegations of Mr. Adams were promptly and carefully investigated; that in the greater number of cases Mr. Adams proved to be mistaken, the suspected ships being merely merchant-ships, built and fitted out with a view to a special employment, and not for war; that in all cases as to which reasonable evidence could be obtained, the suspected vessels were seized and proceedings instituted for the condemnation of them; that four were thus seized—the Alexandra, the two iron-clads, and the Canton or Pampero—and were prevented from being used for belligerent purposes; and one of them (the Alexandra), having been seized in England and restored by the verdict of a jury, was afterwards seized again in a British Colony. || That during the whole period of the war, which lasted for four years, no vessel armed for war was sent out or procured from British ports for belli-

gerent use; and that of vessels specially adapted by construction for warlike use, two only, the Florida and Alabama, were so procured, in the manner and under the circumstances abovede scribed; whilst of these two only, the Alabama, escaped and came into the possession of the Confederate Government without having undergone a seizure and trial. || Finally, it has been seen that the Government of Her Britannic Majesty, not content with carefully performing, to the utmost of its power, its recognized international obligations, overstepped on more than one occasion the actual limit of those obligations, for the sake of preventing anything whatever which might compromise, or be reasonably thought to compromise, its neutrality; and, in particular, that, in order to prevent vessels which had been armed or built for war within Great Britain from passing into the hands of a belligerent, a large expenditure was twice voluntarily incurred, much of it without any equivalent, in addition to the costs and charges occasioned by unsuccessful proceedings in Courts of Law.

PART X.

Remarks in conclusion.

Her Britannic Majesty's Government has now stated, for the information of the Arbitrators, the principal facts which it believes to be material to a just adjudication on the claims urged on the part of the United States. In so doing, Her Majesty's Government has been under the unavoidable disadvantage of having to meet a Case which has not yet been presented. When that shall have been done, and the claims of the United States shall have been clearly ascertained, Her Majesty's Government will avail itself of the opportunity which it will have, under Article IV of the Treaty, to submit to the Tribunal such additional or more ample statement of facts as may then appear to be necessary. It forbears also, until a comparison of the Cases submitted on both sides shall have shown what points are really in dispute between the two Governments, to enter into argument in support of its own position, and will, for the present, content itself with placing before the Tribunal the considerations which follow. || That vessels should, under whatever circumstances, have been procured from British ports for warlike use, and employed as belligerent cruizers against the United States (Great Britain herself being neutral), has been a subject of displeasure and regret to Her Britannic Majesty's Government. This regret is not removed by the facts — material as they undoubtedly are to a just appreciation of the question — that the vessels were obtained by means of artifice and concealment, which defeated the vigilance of the officers of the Government; that all of them, when they respectively departed from Her Majesty's dominions were wholly unarmed, and some of them constructed as mere merchant-ships, without any special adaptation for war; that they were few in number; and

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that the persons who gained possession and control of them, and by whom they were used for war, were themselves (as the Government of the United States has never ceased to maintain) American citizens. Circumstances such as these must greatly affect, in the judgment of any impartial person, the question as to the responsibility of the neutral Government; yet it is nevertheless true that the acts themselves (being such as, if done or authorized by the neutral Government, would have compromised its neutrality) had an inevitable tendency to disturb its relations with the belligerent against whom they were directed. Her Majesty's Government, therefore, has not hesitated to express its regret, frankly and publicly, to the Government of the United States, and has permitted the expression of it to be placed on record in the Treaty which has been concluded between the two Powers. || But the Government of the United States insists that it is entitled to satisfaction in money for claims which it asserts have arisen out of acts of these vessels — that is, out of operations of war carried on, by means of them, by the persons in possession of them for the time being. It is manifest that this contention is one which Her Britannic Majesty's Government, although animated by the most friendly feelings towards the United States, could not, which due regard for its own rights and those of neutral nations in general, consent to acknowledge, not believing it to be just. It is a claim of strict right, and can be supported only by clearly establishing that an international duty, owed by Great Britain to the United States, has been violated by Great Britain, and by showing further that an appreciable injury has accrued directly from this cause to the United States, for which Great Britain ought, in justice, to make reparation in money. It is for the Government of the United States, then, to substantiate these positions, to specify clearly the international duty or duties on which it relies, and to prove the violation of which it complains. || A charge of injurious negligence on the part of a sovereign Government, in the exercise of any of the powers of sovereignty, needs to be sustained on strong and solid grounds. Every sovereign Government claims the right to be independent of external scrutiny or interference in its exercise of these powers; and the general assumption that they are exercised with good faith and reasonable care, and that laws are fairly and properly administered — an assumption without which peace and friendly intercourse could not exist among nations — ought to subsist until it has been displaced by proof to the contrary. It is not enough to suggest or prove that a Government, in the exercise of a reasonable judgment on some question of fact or law, and using the means of information at its command, has formed and acted on an opinion from which another Government dissents or can induce an Arbitrator to dissent. Still less is it sufficient to show that a judgment pronounced by a Court of competent jurisdiction, and acted upon by the Executive, was tainted with error. An administrative act founded on error, or an erroneous judgment of a Court, may indeed, under some circumstances, found a claim to compen-

sation on behalf of a person or Government injured by the act or judgment. But a charge of negligence brought against a Government cannot be supported on such grounds. Nor is it enough to suggest or prove some defect of judgment or penetration, or somewhat less than the utmost possible promptitude and celerity of action, on the part of an officer of the Government in the execution of his official duties. To found on this alone a claim to compensation, as for a breach of international duty, would be to exact, in international affairs, a perfection of administration which few Governments or none attain in fact, or could reasonably hope to attain, in their domestic concerns; it would set up an impracticable and therefore an unjust and fallacious standard, would give occasion to incessant and unreasonable complaints, and render the situation of neutrals intolerable. Nor, again, is a nation to be held responsible for a delay or omission occasioned by mere accident, and not by the want of reasonable foresight or care. Lastly, it is not sufficient to show that an act has been done which it was the duty of the Government to endeavour to prevent. It is necessary to allege and to prove that there has been a failure to use, for the prevention of an act which the Government was bound to endeavour to prevent, such care as Governments ordinarily employ in their domestic concerns, and may reasonably be expected to exert in matters of international interest and obligation. These considerations apply with especial force to nations which are in the enjoyment of free institutions, and in which the Government is bound to obey, and cannot dispense with the laws. || If the Tribunal should come to the conclusion that Great Britain has incurred any liability to the United States, the question will then arise what should be deemed the just measure and extent of that liability. Her Britannic Majesty's Government abstains at present from entering into that question, and will reserve such observations as may be fitly offered in relation to it on the part of Great Britain to a later stage of the proceedings. Here it is sufficient to remark that a claim on the part of a belligerent to be indemnified at the expense of a neutral for losses inflicted or occasioned by any of the ordinary operations of war, on the plea that those operations were assisted or facilitated by negligence on the part of the neutral Government, is one which involves grave considerations and requires to be weighed with the utmost care. Losses of which such negligence is the direct and proximate cause (and it is in respect of such only that compensation could justly be awarded) are commonly not easy to separate from those springing from other causes. Success in warlike operations is generally due not only to the force possessed, but to the skill and courage exerted, by the successfull combatant. If claims of this nature were to be freely admitted, a belligerent might demand to be indemnified by the neutral against consequences fairly attributable, in part or altogether, not to the fault of the latter but to his own want of capacity and enterprise. Her Majesty's Government has been compelled to point out that in respect of the vessels to which

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the foregoing statement relates there was, on the part of the Government of the United States or its officers, an extraordinary remissness in using the naval forces at their disposal, and that if ordinary activity had been exerted in the endeavour to intercept and capture these vessels, the losses of which the United States now complain would probably have been in great measure averted. It cannot be consistent with any reasonable view of international obligations that a belligerent State, alleging itself to be aggrieved by some imputed negligence of a neutral Government, should on that account claim indemnity from the neutral for losses in the course of warlike operations which it has not actively and diligently exerted itself to prevent or arrest. || It was the constant aim of Her Britannic Majesty's Government throughout the war to observe with fidelity and exactness the obligations, and to maintain unimpaired the rights, which the law and practice of nations have assigned to neutral Powers. In upholding those rights all the nations of the world are interested; and it was the duty of Great Britain, as a maritime Power of the first order, brought by circumstances into closer contact with the war than any other State, to resist on the one hand any encroachment on them, and to abstain on the other from any attempt to extend them beyond the just and expedient limits traced out by international law. Her Majesty's Government has given the best proof of its sincerity in these respects, as well as its earnest desire to promote the pacific and amicable settlement of international differences, by proposing and agreeing to refer to the judgment of impartial Arbitrators the question whether, in the matters complained of by the United States, it has failed to discharge any international duty. In deciding on the questions submitted to it, the Tribunal will be called upon to apply to them principles and considerations of wide application, not confined to maritime neutrality, nor to the acts and conduct of maritime nations alone. Great Britain is prepared to accept the award, whether favourable or unfavourable to her. She desires only that it shall be just. She claims only that it shall be founded on a true and equitable interpretation of the law of nations, and on principles which she herself and all other Powers may be satisfied, whether as neutral or as belligerent, to acknowledge and abide by in time to come.

[Dem hier auszugsweise mitgetheilten "British Case" waren 7 Beilagenbände beigegeben, von welchen der letzte ein besonderes Blaubuch bildet. Derselbe enthält: "Reports of Committees appointed by the Board of Trade and Admiralty to examine the list of claims contained in Vol. VII of the Appendix to the Case of the United States." Von den andern Bänden, die gesammte Correspondenz enthaltend, heisst es: "The other six volumes of the Appendix are too bulky for distribution. Copies have been placed in the Library of each House for reference."]

Nr. 5022.

GROSSBRITANNIEN. — Note addressed to the Arbitrators and to the Agent of the United States by Lord Tenterden, Agent of Her Britannic Majesty. — Ueberreichung des britischen Counter-Case.

Geneva, April 15, 1872.

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The Undersigned, Agent of Her Britannic Majesty, appointed to attend the Tribunal of Arbitration convened at Geneva under the provisions of the Treaty concluded at Washington, May 8, 1871, between Her Britannic Majesty and the United States, has the honour, in accordance with the IVth Article of the Treaty and the Protocol agreed upon at the meeting held on the 15th of December, to deliver herewith in duplicate to Count Sclopis, the Arbitrator named by His Majesty the King of Italy, the printed Counter-Case of the Government of Her Britannic Majesty, accompanied by additional documents, official correspondence, and evidence in reply to the Case, documents, correspondence and evidence presented on the part of the United States to the Tribunal at that meeting. || The Undersigned, etc.

Tenterden.

Nr. 5023.

GROSSBRITANNIEN. — Counter-Case presented on the part of the Government of Her Britannic Majesty to the Tribunal of Arbitration.

PART I.

Introductory Statement.

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The Government of Her Britannic Majesty now presents to the Tribunal of Arbitration its Counter-Case, or reply to the Case submitted on the part of the United States, so far as a reply appears to be necessary or admissible. || To the second chapter of the American Case, which imputes to the British Government hostile motives, and even insincere neutrality, no reply whatever will be offered in this Counter-Case. The British Government distinctly refuses to enter upon the discussion of these charges. First, because it would be inconsistent with the self-respect which every Government is bound to feel; secondly, because the matter in dispute is action, and not motive, and therefore the discussion is irrelevant; thirdly, because to reply, and to enter upon a retaliatory exposition, must tend to inflame the controversy which, in the whole tone and tenour of its Case, the British Government has shown its

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desire to appease; and lastly, with respect to the charges themselves, if they were of any weight or value, the British Government would still contend that the proper reply to them was to be found in the proof which it has supplied that its procedings have throughout, and in all points, been governed by a desire, not only to fulfil all clear international duties towards the Government of the United States, but likewise, when an opportunity was offered, even to go beyond what could have been demanded of it as of right, in order to obviate all possibility of cavil against its conduct. || Neither will this Counter-Case contain any reference whatever to the subject of indirect losses. Her Majesty's Government is engaged in a correspondence with the Government of the United States on this subject, pending which, this Counter-Case is presented, without prejudice to the position assumed by Her Majesty in that correspondence, and under the reservations more particularly stated in a note accompanying it, which will be, at the same time, delivered to the Arbitrators.

Vessels to which the Claims of the United States relate.

Her Britannic Majesty's Government believed itself to be, and was in fact, justly entitled to assume that the claims which it had to meet would be found to relate exclusively to the four vessels known as the Florida, Alabama, Georgia and Shenandoah, or some or one of them; these being the only ships in respect of which claims had been made by the Government of the United States against Great Britain. It appears that, beside claiming on account of all of these four vessels, the United States now claim on account of nine other vessels, none of which are alleged to have been in any manner armed, fitted out, or equipped for war within British territory. Three of these are stated to have been captured, armed, and employed as tenders by the officer commanding the Florida during the cruise of that vessel, and one by the commander of the Alabama. Of two others, the Sumter and Nashville, it is alleged only that they received hospitalities in British ports, while cruising as ships of war of the Confederate States; of two more, the Tallahassee and Chickamauga, that, having been originally built in England and employed in carrying cargo to and from ports of the Confederate States, they were converted into cruisers by the Confederate Government; and of the ninth, the Retribution, that her commander contrived on two occasions to carry a prize captured by him on the high seas into the territorial waters of an island belonging to Her Majesty's dominions, and there to dispose of or destroy the cargo. || As to all of these nine vessels, but more especially as to five of them, it might justly be maintained that they ought not to be reckoned among the vessels which have given rise to the claims generically known as the Alabama claims, and that no complaints in respect of them ought to be considered or received by the Arbitrators. Her Britannic Majesty's Government, however, has not thought proper to raise this objection.

It contents itself with directing the attention of the Tribunal to the fact that, neither in the course of the war, nor during the long period which has elapsed since its conclusion, have any claims whatever been made upon Great Britain by the United States on account of any of these vessels. || There have been further introduced into the list of claims losses for captures by two vessels, named the Boston and Sallie, which are not mentioned in the Case, and expenses said to have been incurred in the pursuit of a third (the Chesapeake), as to which the Case is equally silent. Her Majesty's Government presumes that this has been done through inadvertence. No award can be made which shall comprehend or take into account the acts of vessels as to which the United States have not even alleged any failure of duty.

General Character of the Evidence.

It would be superfluous to remind the Tribunal that the conclusions, at which it will arrive, must of necessity be formed, not upon what the Government of the United States may allege, but upon what it shall be able to prove. Nor can it be necessary to point out that, whilst it is not the duty of the Tribunal to apply to the evidence produced on either side rules drawn from the law or methods of procedure established in any particular State, the credibility and value of that evidence must nevertheless be tried by those general principles of reason and justice which are applicable to all testimony, in whatever forum it may be offered, for whatever purpose, or under whatever circumstances. But it may be convenient that the attention of the Arbitrators should at the outset be directed to the character of some portions of the evidence on which the United States rely. || Much of the evidence adduced on behalf of the United States has been also laid before the Arbitrators by Great Britain, either as supporting the Case of Her Britannic Majesty's Government, or as forming part of the official correspondence and other materials of which it was proper that the Arbitrators should be in possession before proceeding to adjudicate on the matters referred to them. Much therefore of the evidence on each side is common to both, though the two parties differ in the use which they respectively make of it. | Amongst the other documentary evidence cited or referred to in the Case of the United States, are reports and despatches from Consuls or Consular officers of the United States who were during the war, or have since been, resident in ports within Her Majesty's dominions. Of these persons it may be assumed that they were gentlemen worthy of credit when relating anything withing the range of their personal knowledge. As to statements made by them on the authority of others, the credit to be attached to these must depend in every case on the knowledge and veracity of the informant, not on those of the reporter of the information. Statements made on the ground of alleged notoriety or public rumour are evidence only — and that of a very vague

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and unsatisfactory kind, since little reliance can be placed on assertions which, from their very nature, there can be no means of testing — that a number, greater or less, of persons who are themselves unknown, and whose credibility and means of information are likewise unknown, believe, or have reported, a supposed fact to be true. It should be added that these officers were, as was natural, zealous — sometimes to .indiscretion — in the cause of their Government; that they shared to the full, with their countrymen at home, in the excited and irritable feelings which are generated by civil war, and were, like their Government, firmly impressed with the erroneous idea that all armed vessels of the Confederate States ought, in foreign ports, to be regarded and treated as piratical. The admission of a Confederate ship on the same terms as a United States' ship, was by itself, in their view, an offence against the United States; and this error led them into many misconceptions, and coloured throughout the reports which they addressed to their Government. || The Government of the United States has appended to its Case, and has frequently referred to, and invoked as evidence against Great Britain, a mass of Confederate papers, the greater part of which consists of correspondence said to have passed between persons who where hired and employed during the war for various purposes by the Confederate Government and officials of that Government, whilst the rest is of a private and still less authentic character. Most of these papers are said to have been "captured at the taking of Richmond, and at other times"; and they, or such portions of them as the Government of the United States has thought fit to make public, are now made known to Her Britannic Majesty's Government for the first time. Of the authenticity of them, and of the manner in which they came into the possession of the Government of the United States, Her Britannic Majesty's Government has no knowledge whatever beyond that which it derives from the above-mentioned statement, which it willingly accepts as true. Of the persons by whom and the circumstances under which the letters were written, and of the character and credibility of the writers, it knows nothing whatever. They are persons with whom this Government had nothing to do, and whose very existence was unknown to it; and it does not admit as evidence against Great Britain any statements which they may have made to those who employed them or to one another. || Some notice must here be taken of the use, which has been made in the Case of the United States, of opinions recently expressed by one or two living writers respecting the matters referred to the Tribunal. One of these (Dr. Bluntschli) is a jurist of celebrity, who, in the short paper written by him on the subject, has with great propriety guarded himself against being supposed to pronounce any decisive opinion, frankly admitting the inadequacy of his information, which indeed he appears to have derived entirely from a speech delivered in the Senate of the United States. On this point, however, Her Britannic Majesty's Government has but one remark to make. Whatever qualifications these

writers might be found to possess for forming a jugdment on the question, if they had been acquainted with the facts — a matter on which Her Majesty's Government has no opinion to express — they are not the persons selected as Arbitrators in this case. The eminent persons who have been so selected will form their conclusions under the definite sense of responsibility proper to a high and regularly constituted judicial tribunal, after hearing both sides, and upon a full and complete knowledge, such as no one can possibly have possessed before, of all the facts of the case; and Her Britannic Majesty's Government is well assured that they will feel it to be, as it is, their first duty to form those conclusions for themselves, upon the facts and arguments brought before them, absolutely uninfluenced by any opinions which any writer, be he who he may, has permitted himself to express, whether on one side or on the other. It is well known to the Arbitrators that when, on former occasions recorded in history, jurists have undertaken to determine the merits of international questions actually in controversy, the jugdments so pronounced have been held questionable, as open to the suspicion of partizanship, and have, in fact, been often influenced by a bias, the precise causes of which it might be difficult to ascertain. This alone is a sufficient reason why weight should not be assigned to opinions put forward *post litem motam.*

PART II.

Argument of the United States on Neutral Duties.

Propositions affirmed by the United States.

In Part III of the Case of the United States an endeavour has been made to furnish the Arbitrators with a definition of the duties which Great Britain, as a neutral Power, was bound to observe towards the United States during the war. At the close of an elaborate dissertation on this subject, the Government of the United States sums up the conclusions which it conceives itself to have established, in the form of twelve propositions. These propositions it regards as governing the questions involved in the claims which it submits to the Arbitrators. || Her Majesty's Government believes that it will adopt the course most convenient to the Tribunal, by explaining at once and in the first place how far it assents to the propositions laid down by the United States, and how far it dissents from them; examining afterwards, so far as may be necessary, the grounds on which the conclusions of the United States are formed, and stating its own conclusions on such points as appear to be in dispute. || The propositions advanced on the part of the United States are the following: —

"1. That it is the duty of a neutral to preserve strict and impartial neutrality as to both belligerents during hostilities." || The British Govern-

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ment willingly assents to this proposition. No one, indeed, has yet been found to deny that it is the duty of a neutral Power to be neutral; or that neutrality is, by its very definition, a condition of impartiality in matters relating to the war, or to affirm that it is possible to be neutral as to one of two belligerents without being neutral as to the other.

"2. That this obligation is independent of municipal law." ‖ The British Government accepts this proposition also.

"3. That a neutral is bound to enforce its municipal laws and its executive proclamation, and that a belligerent has the right to ask it to do so, and also the right to ask to have the powers conferred upon the neutral by law increased, if found insufficient." ‖ The British Government does not dispute that a belligerent Government may, if it think fit, ask for any of these things. But that a neutral Power is under an international obligation to comply with the request, or to enforce its municipal laws and all proclamations or orders issued by the Executive Government, is far from being universally true: it is admissible only under very material qualifications, which will be presently stated. Still less can it be admitted to be generally true that a belligerent Power has a right to call upon the neutral State to make changes in its domestic legislation.

"4. That a neutral is bound to use due diligence to prevent the fitting out, arming, or equipping, within its jurisdiction, of any vessel which it has reasonable ground to believe is intended to cruise or to carry on war against a Power with which it is at peace.

"5. That a neutral is bound to use like diligence to prevent the construction of such a vessel.

"6. That a neutral is bound to use like diligence to prevent the departure from its jurisdiction of any vessel intended to cruise or carry on war against any Power with which it is at peace; such vessel having been specially adapted, in whole or in part, within its jurisdiction, to warlike use.

"7. That a neutral may not permit or suffer either belligerent to make use of its ports or waters as the base of naval operations against the other.

"8. That a neutral is bound to use due diligence in its ports or waters, to prevent either belligerent from obtaining there a renewal or augmentation of military supplies, or arms for belligerent vessels, or the recruitment of men."

Great Britain adheres to the three Rules inserted in Article VI of the Treaty of Washington, and accepts them in the words in which they are there expressed; whilst it considers those Rules as exceeding in some material respects the obligations which, independently of them, could have been established by International Law against a neutral Power free from all engagements on the subject, direct or indirect, with a belligerent. The British Government is willing to discuss the construction of these Rules, but declines to admit any deviation from or enlargement of them. The statement that a

neutral Government "is bound to use like diligence to prevent the construction of such a vessel", appears to Her Majesty's Government to be such a deviation or enlargement. It is, in fact, a simple interpolation. Nor can the propositions numbered 7 and 8 be accepted as a correct representation of the Second and Third Rules.

"9. That when a neutral fails to use all the means in its power to prevent a breach of the neutrality of its soil or waters, in any of the foregoing respects, the neutral should make compensation for the injury resulting therefrom." ‖ The British Government does not admit this proposition as it stands, but it agrees that, where an appreciable injury has been directly caused by a violation of a clearly-ascertained international duty, suitable reparation ought to be made to the injured party.

"10. That this obligation is not discharged or arrested by the change of the offending vessel into a public man-of-war.

"11. That this obligation is not discharged by a fraudulent attempt of the offending vessel to evade the provisions of a local municipal law.

"12. That the offence will not be deposited so as to release the liability of the neutral even by the entry of the offending vessel in a port of the belligerent, and there becoming a man-of-war, if any part of the original fraud continues to hang about the vessel."

Her Majesty's Government must observe, with all respect for the Government of the United States, that it can neither admit nor deny propositions to which it finds itself unable to attach a distinct meaning. It is not for the British Government to contend that any obligation, either of a Government or of an individual, which has not been fulfilled, can be discharged by subsequent proceedings, such as are here supposed, of other parties. But if it be meant to suggest that, in any such case, the default of the neutral Power is not limited to the acts done or omitted to be done on its part, within its own territory, but is to be deemed a continuing default, or series of defaults, during the whole or some part of the subsequent proceedings of the offending vessel beyond its jurisdiction, the British Government must demur altogether to such a doctrine, as unknown to international law, and opposed to reason and principle.

Argument of the United States. Effect ascribed to British Laws and Regulations as Interpretations of International Law.

The differences which exist between the British Government and that of the United States arise partly in the statement of principles, but more in the application of them to facts admitted or proved. The latter Government has prefixed to its twelve propositions a lengthened argument, which appears to be disigned to prove that, if not true in themselves, they are true against Great Britain; and that, if true in themselves, they ought to be applied

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against her with exceptional and peculiar rigour. This argument appears to the British Government to contain errors of the gravest kind. || The source of these errors is manifest. The Government of the United States is not satisfied to rely upon the three Rules embodied in the Treaty, coupled with the general principles of International Law not inconsistent with them, as sufficient to support the claims urged against Great Britain. It desires, therefore, to persuade the Arbitrators to apply to the conduct of Great Britain, not the general standard of neutral obligation which, under corresponding circumstances, they would apply to the United States, or to any other Power which had accepted those Rules, but a stricter and more rigorous standard, drawn from the municipal laws of Great Britain, from administrative acts of the British Government, or from declarations of British statesmen. || The positions contended for by the United States are in substance as follows: —

1. The municipal laws of Great Britain and the administrative acts of her Government are to be regarded as defining as against herself her conception of her international duties. What these laws or acts prohibit, she must be assumed to regard as prohibited by the law of nations, and by that standard she must be tried. In short, where her conception of international duty, thus measured, appears to fall short of the common standard, it is to be disregarded; in every other case it is to be assumed as the measure of what she owes to other nations, though not as the measure of what other nations owe to her.

2. Independently of this theory, Great Britain is under an international obligation to execute her municipal laws and enforce her Proclamations and Ordinances where they are for the advantage of other nations.

3. In the performance of these duties Great Britain is bound to use "due diligence", by which is meant an exercise of active vigilance and an effectual use of all the means within the power of the Government.

4. Failing to use this due diligence, Great Britain is bound to make compensation for any injury resulting from such failure.

It is necessary to state these positions clearly, because they are expressed with some vagueness in the Case of the United States. || Such, then, is the general measure of neutral duties which the Government of the United States has adopted, and endeavours to persuade the Arbitrators to adopt, in support of its claims against Great Britain. || To state the first of this series of positions is to confute it. If it were a true assumption that the municipal laws of a State, wherever they prohibit acts which may affect the security or interest of other States, must have been founded, not on considerations of policy and expediency, but on conceptions of international obligation, it would nevertheless be impossible to contend, with any show of reason, that by these conceptions, and not by the general rules of the law of nations, the State was to be judged in any international controversies in which it might become engaged. Such a rule, it is evident, would produce the most fantastic con-

sequences. In place of a common and equal standard of obligation, we should then have a varying and unequal one, varying with the nations to which it was applied, and with the notions of duty which they might from time to time entertain. It would be as reasonable to contend that a question between private litigants ought to be decided, not by the law, but by what the defendant had supposed to be the law, provided that the plaintiff could show that the difference was in his own favour. || It is not, however, a true assumption that whatever that laws of a State prohibit in matters affecting the security or interests of other States, it must have held itself bound to prohibit by force of an international obligation. This is a hypothesis as groundless as it is unreasonable. For the primary and immediate object of municipal law is the protection of the security and interests of the State itself and its citizens; and it is clear that, with a view to this object, it may be, and frequently is, expedient to prohibit in relation to other States acts not prohibited by the law of nations. The theory of the United States would assume that this never is or can be expedient. || This observation applies with all its force to those municipal laws which are sometimes styled "Neutrality Laws." Such laws belong to the class which, in the codes of some European nations, are described as having for their object the protection of the internal and external security of the State. Thus, by the Penal Code of France it is made an offence to levy or enrol soldiers without the authority of the Government, and penalties of various degrees of severity are denounced against any persons who, by acts not approved by the Government, may have exposed French citizens to reprisals or the State to a declaration of war. These provisions have been adopted in the Penal Code of the Kingdom of Italy; in that of the Netherlands, and by other countries. || The law known in England as the Foreign Enlistment Act of 1819 belongs to the same class. The considerations on which it is founded are thus stated in the preamble: —

"Whereas the enlistment or engagement of His Majesty's subjects to serve in war in foreign service without His Majesty's license, and the fitting out and equipping and arming of vessels by His Majesty's subjects without His Majesty's license, for warlike operations in or against the dominions or territories of any foreign Prince, State, or Potentate, or persons exercising or assuming to exercise the powers of Government in or over any foreign country, colony, province, or part of any province, or against the ships, goods, or merchandize of any foreign Prince, State, Potentate, or persons aforesaid, or their subjects, *may be prejudicial to, and tend to endanger the peace and welfare of this Kingdom*, and whereas the laws in force are not sufficiently effectual for preventing the same; be it therefore enacted," etc.

Laws of this kind serve, amongst other purposes, that of enabling or assisting the State which enacts them to discharge, when a neutral in war, the duties, and protect the rights, of neutrality, and they may therefore with perfect propriety be described as having that object in view. But their main,

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though not always their sole, purpose, is to restrain whatever may tend to imperil the relations of the State with foreign Powers; they are framed on those considerations of expediency by which all legislation is governed; and, as they may stop short in some respects of the provisions of international law, so they may transcend them in others. || It has sometimes been argued indeed, though not with success, that the law of nations should be regarded as furnishing an interpretation of the Foreign Enlistment Act, and confining its scope to acts which can be shown independently to be within the prohibitions of that code. But that the Act should, on the contrary, be viewed as extending the prohibitions of the law of nations, was never, to the knowledge of Her Majesty's Government, contended by any one, and such an argument would certainly receive no attention from any judicial tribunal. . .

The Government of the United States further assumes that the same false principle is to be applied not only to laws, but to the proclamations, orders, and regulations issued during a war by neutral nations. These also are to be supposed to prohibit nothing which the Government that issues them does not believe to be interdicted by indernational law. || Her Majesty's Government had supposed that the nature of these acts and orders was a thing perfectly well understood by the United States, as it certainly is by maritime nations in general. They are universally understood to be acts done in the free exercise of that right which every Sovereign State possesses to regulate the access of belligerent vessels to its ports. They convey no admission whatever that what they enjoin is enjoined, or that what they prohibit is prohibited, by the law of nations. In some cases this may be so; commonly it is not so. But the acts themselves, whether they happen to coincide with rules of international law or not, are voluntary and discretionary. They are done in exercise of a right, not in performance of an obligation. || The foregoing remarks have been drawn from the British Government by the attempt made in the Case of the United States to introduce into this controversy an assumption which is clearly erroneous — the assumption, namely, that whatever is or was prohibited by British law or by the Orders or Proclamations of the British Government ought, as against Great Britain, to be held to be prohibited by the law of nations. . . . . . || Her Britannic Majesty's Government declares, on the contrary, in the most explicit manner, that the law to which it has submitted its conduct, and by which it has consented to be tried, is the International Law recognized in common by all civilized States, coupled with the three Rules embodied in the Treaty; that this law is to be gathered, not from British statutes or ordinances, but from the general consent of nations, evidenced by their practice; and that the laws and ordinances of Great Britain herself can be appealed to only for the single purpose of proving that her Government was armed with sufficient power to discharge its international duties, and not for the purpose of extending, any more than of restricting, the range of those duties.

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Argument of the United States. Alleged duty of a Government to enforce its own Laws and Regulations.

At page 211 of its Case, the Government of the United States lays down, as against Great Britain, the general proposition that a neutral is bound to enforce its laws and its "executive proclamation." It appears to contend for the same proposition at page 108. But at pages 122, 123, it expressly guards itself against being supposed to admit that Great Britain, against whom this supposed principle is pressed, would herself, if the case were reversed, be entitled to the advantage of it against the United States or against other nations. The Arbitrators, therefore, are solicited to assume that Great Britain was bound to enforce her laws and ordinances so far as they were in favour of the United States, with the understanding that the decision is not to imply that any corresponding obligation was, or is, incumbent on the United States or on other Powers towards Great Britain. ‖ In defence of this extraordinary suggestion it is pleaded that "in 1793, during General Washington's administration, the representative of Great Britain in the United States pointed out to Mr. Jefferson, who whas then Secretary of State, acts *which were deemd by His Britannic Majesty's Government to be 'breaches of neutrality'* done in 'contravention of the President's Proclamation' of Neutrality, and he invited the United States to take steps for the repression of such acts and for the restoration of captured prizes", and that "it appears that the United States complied with these requests." It will be seen that the representations then made on the part of this country to the United States were founded on the character of the acts themselves, which were deemed by the British Government to be breaches of neutrality, and not upon the fact that they were prohibited by the President's proclamation. Further comment on this supposed precedent, which will hereafter be examined for a different purpose, is here unnecessary. ‖ The international duties which Great Britain acknowledges towards other States, she will at all times hold herself entitled to enforce against them. And she would not have expected that, under any circumstances, the United States could have taken a different view. ‖ Disregarding the attempt to confine the operation of it to a single Pawer, Her Majesty's Government cannot admit the proposition for which the Government of the United States contends. Setting aside those cases in which the law or ordinance serves only as a means of enabling the Government to discharge an antecedent international obligation, and cases in which the omission to enforce it would be an instance of wilful partiality or a violation of an express or tacit engagement, it cannot be admitted that a State is bound by any international duty towards other States to execute or enforce its own ordinances or laws within its own territory. A State is bound to enforce the laws which afford protection to life and property, for the benefit of commorant foreigners, as well as for that of its own citizens;

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because it is a principle universally recognized that foreign residents obeying the laws are entitled to the protection which they bestow. Here there is an antecedent duty. But a State is not bound to enforce revenue laws of its own from which an incidental advantage may be reaped by some foreign nation or its citizens; for here there is no antecedent duty. Still less can it be allowed, in the absence of any antecedent obligation, that in executing its own laws a State is bound, in relation to other States, to the exercise of active vigilance and exact diligence, or that it owes them compensation for any loss they may conceive themselves to have sustained through a default in this respect. The comity of nations indeed, permits representations and remonstrances to be made by one Government to another in cases where no strict right exists. Nor is Her Majesty's Government disposed to deny that cases may occur in which, through a reasonable confidence that the laws and ordinances of a particular State would be executed according to their tenor, losses may have been incurred by another State or its citizens or subjects for which some reparation might fairly and equitably be made. But the claim for compensation in such cases arises from special circumstances, and appeals to international comity and an enlarged sense of equity, not to strict right. Great Britain is willing to go as far as any State has ever gone in this direction. The British Government has never denied — on the contrary, it has at all times freely and readily admitted — that the United States had reasonable ground to expect that the provisions of the Foreign Enlistment Act would, like the other municipal laws of Great Britain, be fairly executed even where they might exceed the ascertained limits of the law of nations. This consideration, and the wish that every cause of complaint on the part of the United States should be completely and effectually removed, together with the desire to make satisfactory provision for the future, induced Her Majesty's Government, in concluding the Treaty of Washington, to consent that a retrospective effect should be given to the three Rules inserted in the VIth Article of that Treaty.

Recapitulation.

The conduct of Great Britain in this matter is to be tried by the three Rules of the Treaty of Washington, coupled with such general principles of international law, not inconsistent with those rules, as may appear to have been applicable to the case. The general principles of international law are to be collected from those sources to which it is customary to have recourse, and not from the municipal law of Great Britain, nor from administrative acts or regulations of the British Government; and these are to be applied, as against Great Britain, in the same manner in which they would be applied, under like circumstances, against the United States or any other Sovereign State.

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Argument of the United States. Extent of Neutral Obligations as deduced from the Three Rules, and from General Principles of International Law.

Her Britannic Majesty's Government proceeds to remark upon that part of the Case of the United States in which the Government of the United States has explained and endeavoured to support its view of the extent of the duties of a neutral Power. ‖ The British Government deems it right here to observe that the questions submitted to the Tribunal are not of an abstract or speculative character. The Arbitrators have not to consider and determine what rules might with advantage be laid down for the regulation of the conduct of neutral Powers during war; what, under such rules, would have been the duty of Great Britain, or whether Great Britain acted in accordance with that standard of duty. They have to deal with facts. Injuries are alleged to have been inflicted by Great Britain and sustained by the United States. Reparation is claimed for those injuries. There can be no injury without some violation of a duty actually existing at the time.*) The Arbitrators, before they decide against Great Britain, must be satisfied that there was such a violation of duty. They must be satisfied, therefore, in the first place, that the alleged duty really existed. They must be satisfied, further, that the violation, if any, was such that reparation may justly be awarded for it in money — that is, that it was the direct cause of some substantial and appreciable loss to the party claiming reparation. ‖ The neutral duties which it is alleged by the United States that Great Britain failed to discharge, are of two classes, which should be kept distinct from each other. They relate to —

(A.) The original fitting out, arming, or equipping in neutral ports, of vessels intended for the naval service of a belligerent, and the original departure from the jurisdiction of the neutral of vessels intended for such service, and adapted for war wholly or in part within such jurisdiction;

(B.) The admission into the ports or waters of a neutral of vessels in the naval service of a belligerent, whether such vessels were or were not originally adapted for war within the jurisdiction of the neutral; and acts done by or in respect of vessels so admitted.

The question what measure of diligence or care may justly be demanded of a neutral Government in the prevention of acts on the part of its subjects or citizens which are inconsistent with neutrality, and the question in what cases and on what accounts reparation may justly be awarded, are again distinct from the foregoing, and have to be considered separately.

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[1]) The general definition of "*culpa*" or "*faute*" applies to international injuries, as well as to injuries, inflicted and sustained by individuals. "Le débiteur est en faute soit qu'il contrevient à l'obligation de ne pas faire, soit quand il n'exécute pas l'obligation de faire, soit quand il n'a pas apporté dans l'exécution ou dans l'accomplissement de cette obligation tous les soins auxquels il était tenu." — *Le Droit Civil Français, par Zachariae, annoté par G. Massé et Ch. Vergé, sec. 548.*

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(A.) *Original Equipment, etc., of Belligerent Vessels in Neutral Ports.*

As to neutral duties falling under the first of these heads, Her Britannic Majesty's Government adheres to what is laid down in the three Rules embodied in the VIth Article of the Treaty, and more particularly in the first of those Rules. The British Government is well convinced that these Rules go beyond any definition of neutral duty which, up to that time, had been established by the law or general practice of nations; but it refrains from arguing that question, holding that the discussion of it is precluded, except so far as may be necessary for the purpose of dealing with arguments founded on an assumed state of International Law, as distinct from an undertaking by Her Majesty to act upon the Rules. By common consent the Rules are, for the purposes of this arbitration, to be taken as applicable to the case; it is to be assumed, without dispute on either side, for the purpose of this arbitration, that the obligations which they purport to express were such as Great Britain had undertaken to perform. . . . . . ‖ It is true beyond controversy that, at the time when the events occurred out of which the claims of the United States have arisen, the mere sale and delivery of a vessel adapted for war in a neutral port to a belligerent, and the mere construction of such a vessel to the order and for the use of a belligerent, had not been declared by any authority to be acts which the neutral Government was under an obligation to prevent, or which violated any neutral duty. And it must never be forgotten that the obligations of International Law are such as have been received and acknowledged by the general consent of nations. No private opinions, or theoretical developments of the principles on which they are supposed to rest, can ever constitute new international obligations or enlarge the old, still they have been themselves generally acknowledged and received. It would seem, indeed, to be inconsistent with neutrality for a neutral Power to introduce or admit, during war, innovations on these subjects to the prejudice of either belligerent. ‖ It is true also, that it was a question at the least of reasonable and serious doubt, whether either of these classes of acts was a contravention of the municipal law of England, or would have been a contravention of that of the United States. Simple justice demands that this should be steadily kept in view in determining whether, in any of the cases brought before the Arbitrators, there was, on the part of the British Government or any of its subordinate officers, such a defect of promptitude or decision as to amount to culpable negligence. It is material to be borne in mind, in considering what facts were known to the Government, what those facts proved or did not prove, and what, upon the facts which were known to it and on which alone it could act, it was the duty of the Government to do. It has been already stated to the Arbitrators, in the Case presented to them on the part of Great Britain, that, in the judgment of Her Majesty's Government and its official advisers, the special adaptation of a vessel to

warlike use was among the acts prohibited by the Foreign Enlistment Act, provided there were sufficient proof that she was intended for the service of a belligerent, although the vessel might not be actually armed so as to be capable of immediate employment for war. The provisions of the Act are not, as has been already observed, to be regarded as declaratory of the law of nations. But Her Majesty's Government agrees that by the second clause of the First Rule it was the intention of the High Contracting Parties to preclude any question on this point from being raised before the Arbitrators, with reference to the words "fitting out, arming, or equipping" in the first clause. || Great Britain does not, on this or on any other point, desire to raise or dispute before the Arbitrators any doubtful or obscure questions of public law. She desires, on the contrary, that they should be relieved, as far as possible, from the necessity of considering such questions, and she expects from them a fair and just decision on ascertained facts, tried by the application of admitted principles, or of plain and legitimate inferences from admitted principles. She accepts as applicable to the case, and as substantially sufficient for an equitable adjudication on it, the proposition that a neutral Government, which has assented to the Rules laid down in the VIth Article of the Treaty, is bound —

"First; To use due diligence to prevent the fitting out, arming, or equipping, within its jurisdiction, of any vessel which it has reasonable grounds to believe is intended to cruise or to carry on war against a Power with which it is at peace; and also to use like diligence to prevent the departure from its jurisdiction of any vessel intended to cruise or carry on war as above, such vessel having been specially adapted, in whole or in part, within such jurisdiction, to warlike use;

"Secondly; Not to permit or suffer either belligerent to make use of its ports or waters as the base of naval operations against the other, or for the purpose of the renewal or augmentation of military supplies or arms, or the recruitment of men;

"Thirdly; To exercise due diligence in its own ports or waters, and, as to all persons within its jurisdiction, to prevent any violation of the foregoing obligations and duties." || She accepts these rules, not with the refinements of meaning and the overstrained rigour of construction which are applied to them in the Case of the United States, but according to their obvious purport, and as they would naturally be understood by persons conversant with the law and practice of nations; and she maintains that the British Government did not at any time during the war, in respect of any of the vessels to which the claims of the United States relate or of any other vessels, fail to use the due diligence which the rules require.

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(B.) *Admission of Belligerent Vessels into Neutral Ports.*

With respect to the admission of belligerent ships of war into neutral ports, the principles of the law of nations are clearly settled, not only by the general consent of publicists, but by a long and nearly uniform practice. || It is the right of a neutral Government, at its absolute discretion, either to refuse admission or to grant it, and extend to the vessels so admitted all the ordinary hospitalities of a friendly port, on such conditions, and subject to such regulations, if any, as the neutral Government may think fit to make; provided only that the same facilities be offered to both belligerents indifferently, and that such vessels be not permitted to augment their military force, or increase or renew their supplies of arms or munitions of war, within the neutral territory. || A neutral Government is not required by the law or practice of nations to place any restrictions whatever upon the liberty which it accords of purchasing provisions, coal, and other supplies (not being supplies of arms or munitions of war). It is not a principle or rule of the law of nations that the supplies purchased should be limited to the quantity necessary for enabling the vessel to gain the nearest port of her own country or of an ally. No such principle was ever, so far as Her Majesty's Government is aware, admitted or contended for by any maritime Power. On the contrary, it has been the constant practice to allow belligerent vessels to repair, refit and supply themselves with stores and fuel, with the avowed intention of continuing to cruise. So also belligerent ships may be either permitted or forbidden, at the pleasure of the neutral, to bring in prizes, to retain possession of them, or even to sell them, although there can be no condemnation of them as prize by any authority locally situate within the neutral territory. Special restrictions may undoubtedly be imposed by the neutral Government if it think fit, but they may be revoked at any time, and do not confer any right on either belligerent. All that a belligerent has a right to demand is, that restrictions imposed on him shall be imposed on his enemy likewise.

First Limitation suggested by the United States.

It has been necessary for Her Britannic Majesty's Government to recall the attention of the Tribunal to these well-known and elementary maxims, because the Government of the United States has not only endeavoured to fix upon the regulations and instructions which the British Government deemed it expedient to issue during the war to its own officers a character which they did not possess, that of acknowledgments or recognitions of rules obligatory under the law of nations; it has further insisted upon a construction of the words of the Second Rule which no neutral nation could safely accept, and which was not in the contemplation of Great Britain at the time when they were agreed to. || The novel limitations which it is attempted

thus to introduce are in the following passage mingled with limitations which at present exist and are recognized by established usage: —

"The ports or waters of the neutral are not to be made the base of naval operations by a belligerent. Vessels of war may come and go under such rules and regulations as the neutral may prescribe; food and the ordinary stores and supplies of a ship not of a warlike character may be furnished without question, in quantities necessary for immediate wants; the moderate hospitalities which do not infringe upon impartiality may be extended; but no act shall be done to make the neutral port a base of naval operations. Ammunition and military stores for cruisers cannot be obtained there; coal cannot be stored there for successive supplies to the same vessel, nor can it be furnished or obtained in such supplies; prizes cannot be brought there for condemnation. The repairs that humanity demand can be given, but no repairs should add to the strength or efficiency of a vessel, beyond what is absolutely necessary to gain the nearest of its own ports. In the same sense are to be taken the clauses relating to the renewal or augmentation of military supplies or arms and the recruitment of men. As the vessel enters the port, so is she to leave it, without addition to her effective power of doing injury to the other belligerent. If her magazine is supplied with powder, shot, or shells; if new guns are added to her armament; if pistols or muskets or cutlasses, or other implements of destruction, are put on board; if men are recruited; even if, in these days when steam is a power, an excessive supply of coal is put into her bunkers, the neutral will have failed in the performance of its duty."

According to this interpretation a neutral Government which should suffer a belligerent cruiser to effect any repairs beyond what are absolutely necessary for gaining the nearest of its own ports, or to receive more coal than would be enough for the same purpose, would commit a breach of neutral duty. It may, indeed, sometimes be found convenient by neutral Powers to impose restrictions of this nature, more or less stringent, on the armed vessels of belligerents admitted into their ports; and this was done by Great Britain during the Civil War. But such restrictions were not then, and are not now, dictated by any rule of international obligation. Were they to become such, and were the obligation to be construed against the neutral with the breadth and rigour for which the United States contend, it may be feared that neutral Powers would rarely be secure against complaints and demands for compensation on the part of one belligerent or another. || Having constantly during the war used British ports as places of resort for its own cruisers, and having repeatedly obtained for them therein successive supplies of coal, which were consumed, not in returning home, but in cruising, the Government of the United States now appears to represent this very act as a breach of neutral duty, and to hold Great Britain liable for any cases in which Confederate vessels may have succeeded in obtaining similar facilities.

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|| This question, however, does not regard Great Britain alone. The Government of the United States has plainly declared that it regards these Rules as no more than a statement of previously established rules of International Law. So far as regards the Second Rule, Her Britannic Majesty's Government concurs in this view. The expressions upon which the United States rely belong to a class in common use among publicists, who, in attempting to define the duties of neutrality, are accustomed to employ these words or others equivalent to them, and of not less extensive meaning. Thus the phrase "base of naval operations", employed in this connection, denotes the use of neutral territory by a belligerent ship as a station or point of departure where she may await, and from whence she may attack her ennemy. That these expressions have not hitherto received the construction which the United States would put upon them, is certain. Whether they are to receive it in future, is a question which concerns not Great Britain only, but all other Powers which may hereafter find themselves neutral in maritime warfare.

Further Limitation suggested by the United States.

The Government of the United States insists further that the general right of neutral Powers to allow free entrance into and egress from their ports to belligerent ships of war is subject to one important exception. This exception relates to vessels which have been originally adapted for war wholly or in part within the jurisdiction of the neutral. It is insisted that the neutral Government is bound to seize and detain such vessels whenever they may enter its ports; that this is a duty which it owes to the other belligerent, and by the non-performance of which it becomes liable to a demand for compensation . . . . . . || This duty seems to have, according to the United States, no limit of time. It applies to vessels which have "at any time" received any partial adaptation for warlike use in the building-yards, docks or waters of the neutral country; it aplies to public ships of war, commissioned by a belligerent Power; and it applies to them indifferently whether the act or acts of adaptation took place after they were commissioned, or before it and before they came into the possession of the commissioning Power. Literally, it might even be taken to apply to cases in which the adaptation had taken place for purposes totally unconnected with the particular war, or with either of the belligerents. Had the United States intended to limit in any way their peculiar interpretation of the clause, they might have been expected to state the limitation. But it is clear that they had no such intention, for they have been careful to employ the widest and most comprehensive language they could possibly command. || It can hardly be necessary to say that this pretended obligation, whereby a neutral Government would be bound to seize by force any public armed ship which might enter its ports, and of which there might be reason to believe that she had at any time before received some partial adaptation

for war within the jurisdiction of the neutral, is entirely unknown to the law, unsupported by practice, and in direct conflict with the principles which have hitherto governed the admission of public ships of war into the ports of friendly nations. || This would alone be sufficient to condemn the interpretation of the second Rule suggested by the United States, even if it could, with any plausibility, be represented as the natural meaning of the words employed. But it is not their natural meaning. No one who desired to lay down such a principle would clothe it in such language. It is clear that these words point to a departure following the special adaptation, whilst the hostile purpose still rests in intention, and the vessel may still, by due diligence, be prevented from quitting the neutral territory to carry that purpose into execution; and that they could not, without violence, be applied to a case in which the ship, having succeeded in effecting her departure, and finally quitted the neutral jurisdiction, has subsequently re-entered it at an indefinite distance of time; when, instead of being merely "intended for warlike use," she is known to be actually engaged in hostile operations; and when her original character has been exchanged for that of a public ship of war, recognized as such in the ports of other neutral States, and exempt as such from all local jurisdiction. Unless a violation of neutrality had been established in due course of law against such a vessel, while properly subject to the neutral jurisdiction, the question of fact whether such a violation had taken place could not, by any form of proceeding, be investigated between the neutral Power and the belligerent whose flag she bore. Even if the proof of the facts, in *foro competente*, were as easy as it has been generally found difficult, the belligerent Power would justly deny the right of the neutral to exercise jurisdiction over a vessel forming part of its public maritime force, for the purpose of any such inquiry. And to detain a public ship of war in a neutral port for acts done before she had obtained that character, without any previous notice that she was not at liberty to come in upon the usual terms, would be in itself an act of war, and a plain violation of well-settled rules of international comity. || Her Britannic Majesty's Government observes with sincere regret that, as in other particulars, so more especially in this, the Government of the United States, instead of accepting in a fair and reasonable sense Rules which the two Powers have engaged to observe towards one another and to recommend for adoption to other States, seems on this occasion to have considered how they might be turned to the greatest advantage in the present controversy, and with that view to have strained the construction of them to the very utmost. The undue extension which it is proposed to give to the First Rule does not accord with its plain and natural meaning, was never contemplated by the Government of Her Britannic Majesty, and is altogether rejected by Great Britain. || The British Government concurs with the Government of the United States in holding that a vessel which has become liable to arrest and seizure, within neutral jurisdiction, by reason of

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a violation of neutrality, cannot relieve itself from that liability by merely removing to another place within the same jurisdiction, and that the duty of the neutral Government to seize and detain, where such a duty exists, would not be affected, though the execution of it might without any want of due diligence be embarrassed or prevented, by the mere fact of such removal. The orders issued for the seizure of the Alabama under the powers of the Foreign Enlistment Act would have been executed at Queenstown or Nassau, had she gone from Liverpool to either of those places, exactly as they would have been executed at Liverpool if they had arrived in time. But the Alabama, when she touched for the first time at a port of a British Colony, had for more than six months been commissioned and in active service as a cruiser of the Confederate States; had, as such, fought a successful action with a United States' warsteamer; and, as such, had been received at the French island of Martinique, as she afterwards was at Fernando de Noronha, Bahia, and Cherbourg. And in matters relating to the war, it was the duty of other neutral Powers, to treat the Alabama in exactly the same manner as, under corresponding circumstances, they would have treated a public ship armed and commissioned by a recognized sovereign State. . . . . . .

[Folgt ein Auszug aus Ortolan, Règles internationales et Diplomatie de la mer (4ème édition) I p. 190.]

The principle laid down in the preceding extract is clear, and the consequences which flow from it are equally clear. A vessel commissioned as a public ship of war, entering a foreign port, is a portion of the naval force of the Government by which she is commissioned, commanded by its officers, and displaying the ensigns of its authority. Any act of force directed against her (unless to prevent or repel aggression, or compel her to depart after having been required to do so by competent authority) would be directed against her Government, and would at the same time, if done without previous warning, be an infraction of a recognized understanding, on the faith of which she entered, and on the observance of which she had a right to rely. If, while in neutral waters, she commits any violation of neutrality or other offence against the neutral, force may undoubtedly be employed in any way which may be necessary in order to prevent or arrest the unlawful act and to compel her departure. But redress ought not to be sought against the ship herself: it should be sought, if needful, against her Government. *A fortiori*, this is true if the offence were committed before she arrived at the neutral port. Thus, of the violations of neutrality committed during the war the grossest and most flagrant by far was that perpetrated by the Wachusett in the harbour of Bahia. The Brazilian authorities would have been amply justified in firing on that vessel whilst engaged in the act, and sinking her if necessary; if she had afterwards presented herself in a Brazilian port, they would doubtless have refused her admission; but they would have rightly abstained, even on such provocation, from seizing and detaining her. *A multo*

fortiori the same proposition holds good if the act complained of were done before the offending ship came into the possession of the commissioning Government, or before she was incorporated into its naval service. || These principles are recognized by publicists and sanctioned by usage. There is not a maritime Power in the world which would not resent any violation of them; and it would be the duty of any naval officer to resist such a violation, unless it were supported by manifestly superior force. They do not extend to prizes brought into neutral ports by the belligerent vessel, if captured within the waters of the neutral, or by a vessel unlawfully armed within her jurisdiction and during the cruise immediately following such armament. These the neutral may restore, and it may be his duty to do so, on the application of the original owners or their Government. . . . .

Argument of the United States. What is "Due Diligence?"

Passing from the question, what classes of acts a neutral Power is bound to use due diligence to prevent, to the further question, what is due diligence, Her Majesty's Government finds that "these words are not regarded by the United States as changing in any respect the obligations of a neutral regarding the matters referred to in the Rules, as those obligations were imposed by the principles of international law existing before the conclusion of the Treaty." Her Majesty's Government concurs whit that of the United States in holding that the words "due diligence" introduce no new or additional obligation. They exact from the neutral, in the discharge of the duties imposed on him, that measure of care, and no other, which is required by the ordinary principles of international jurisprudence, and the absence of which constitutes negligence || Her Majesty's Government will not follow the Government of the United States through the observations which it has presented to the Arbitrators on the nature and degrees of negligence, but will notice only the definition which, at the close of those observations, it had attempted to supply. || "The United States understand that the diligence which is called for by the Rules of the Treaty of Washington is a due diligence; that is, a diligence proportioned to the magnitude of the subject and to the dignity and strength of the Power which is to exercise it. — a diligence which shall, by the use of active vigilance, and of all the other means in the power of the neutral, through all stages of the transaction; prevent its soil from being violated: — a diligence that shall in like manner deter designing men from committing acts of war upon the soil of the neutral against its will, and thus possibly dragging it into a war which it would avoid: — a diligence which prompts the neutral to the most energetic measures to discover any purpose of doing the acts forbidden by its good faith as a neutral, and imposes upon it the obligation, when it receives the knowledge of an intention to commit such acts, to use all the means in its power to prevent it." || Her Majesty's Government has been unable to collect from this definition the information which it is doubt-

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less intended to convey. It may readily be conceded that the care exerted by a Government to prevent violations of its neutrality should bear some proportion to the probable consequences of such offences. It may be conceded also that the responsibility incurred by failing to prevent an offence must materially depend on the power which the Government possessed of preventing it. So far as this, the British Government concurs with the Government of the United States. But Her Majesty's Government cannot admit that the measure of diligence due from neutral Powers ougth to be proportioned in any way to their relative degrees of dignity; it knows of no distinction between more dignified and lessdignified Powers; it regards all sovereign States as enjoying equal rights and equally subject to all ordinary international obligations; and it is firmly persuaded that there is no State in Europe or America which would be willing to claim or accept any immunity in this respect on the ground of its inferiority to others in extent, military force, or population. In truth, the Arbitrators will have clearly perceived, from the statement already presented to them on the part of Great Britain, that in a country which, with free institutions, possesses a large commercial marine and a very extensive ship-building trade, the difficulty of preventing enterprises of this nature is, instead of being less, far greater than in countries which are not so populous and where these conditions are not united; and just allowance ought to be made for this difficulty. The assertion that due diligence means a diligence which shall prevent the acts in question and shall deter men from committing them, if taken literally, can only signify that no Government can be held to have done its duty which has not been completely successful. Of all the Powers in the world, such a test would most severely condemn the Government of the United States. If not taken literally, it can contribute nothing to a serious discussion. It has been shown, by ample evidence, in the Case presented on the part of Great Britain, that the measures adopted by the British Government did prevent and deter men from enterprises which would have violated or imperilled her neutrality; all that the United States have to complain of is, that these measures proved ineffectual to prevent or deter in a very small number of cases, in which the agents contrived to escape observation, or the difficulty of obtaining evidence was great. That due diligence requires a Government to use all the means in its power, is a proposition true in one sense, false in another: true, if it means that the Government is bound to exert honestly and with reasonable care and activity the means at its disposal; false, impracticable, and absurd, if it means that a liability arises whenever it is possible to show that an hour has been lost which might have been gained,. or an accidental delay incurred which might, by the utmost foresight, have been prevented; that an expedient which might have succeeded has not been tried; that means of obtaining information which are deemed unworthy or improper have not been resorted to; or that the exertions of an officer or servant of Government

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have not been taxed to the utmost limit of his physical capacity. || Nor can we fail to observe that, in proportion as we extend the duty of prevention incumbent on neutral Governments, from hostile enterprises which are open and flagrant to acts of a more doubtful character which border on the line betwixt the lawful and the unlawful, it becomes more and more difficult to exact from the neutral, in the performance of that duty, peculiar and extraordinary vigilance and activity. The duty of preventing the open assembling within neutral territory of an armed hostile expedition against a neighbouring country is plain and obvious, and requires only a prompt exercise of adequate force. But it is otherwise when we come to acts of a different class, the criminality of which depends on a latent intention; such, for example, as the mere procuring for belligerent purposes from the yards of a neutral shipbuilder, whose ordinary business it is to build ships of all kinds for customers of all nations, a vessel with some special adaption for war. There is nothing in the relation of a neutral to a belligerent to cast on the former the duty of exercising within his own territory a constant and minute espionage over ordinary transactions of commerce for the protection of the latter. This relation, always onerous to the neutral, is at the same time, it must be remembered, purely involuntary on his part. It is forced on him by the quarrals of his neighbours in which he has no concern, or by their internal discords when those discords break out into civil war. || Her Majesty's Government has not attempted a task which has baffled, as it believes, the ingenuity of jurists of all times and countries — that of defining with any approach to precision, apart from the circumstances of any particular case, what shall be deemed due diligence or reasonable care. In its Case already presented to the Tribunal, it has stated some general propositions, which it believes to be consonant with justice and supported by such analogies as may be fairly drawn from the private law of Europe and America. It leaves it, however, to the Arbitrators, who know what are the ordinary powers of Governments, what the difficulties they labour under, and what may reasonably and wisely be expected from them, to determine, upon a careful consideration of the facts, and on the same principles by which the States, to which they themselves belong, would be willing to be judged, whether on the part of Great Britain there has or has not been that want of the due care or diligence which makes reparation a duty. || On the question, in what cases and within what limits compensation in money may reasonably be deemed due from a neutral nation for injuries occasioned by such a want of care, Her Majesty's Government will here only say, that the position of Great Britain appears to be misapprehended by the United States, and that the two decisions of an American Court cited in the Case have no bearing upon it. Such a question, it is evident, is not within the cognizance of any municipal Tribunal, however respectable; and no municipal Tribunal has attempted to pronounce judgment on it. The Supreme Court of the United States, in the cases cited, decided

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only that of two armed vessels one had been unlawfully fitted out, whilst the other had received an unlawful augmentation of force, within the jurisdiction of the United States, and that prizes taken by each and brought within the jurisdiction of the United States ought to be restored. || The Arbitrators will now be in a situation to judge what value to attribute to the assertion, "that the principles for which the United States contend have been recognized by the statesmen, the jurists, the publicists, and the legislators of Great Britain; that they have the approbation of the most eminent authorities upon the Continent of Europe; and that they have been regarded by the other Powers of Europe in their dealing with each other." The truth is, that the alleged principles from which Her Majesty's Government has declared its dissent were never before seriously asserted, and never admitted or recognized by any Power in Europe or America; that they have the support of no publicist of authority; that they are unknown in Great Britain; and were, up to the time when these claims were brought forward, equally unknown in the United States.

PART III.

Precedents appealed to by the United States.

[Inhaltsangabe. — Fall der schwedischen Schiffe 1825. — Verletzungen der amerikanischen Neutralität 1793 u. 1794. Fall des Cassius. — Verletzungen der amerikanischen Neutralität während des spanisch-portugiesischen Kriegs gegen die spanischen Colonien in Amerika. — Spätere Verletzungen der amerikanischen Neutralitätsgesetze. Expeditionen von Lopez gegen Cuba, 1850—1851, von Walker gegen Mexico, 1853 bis 1860, fenische Einfälle in Canada, 1866—71, Expeditionen zu Gunsten der cubanischen Insurrektion.]

PART IV.

Various complaints of the United States against Great Britain. Traffic in munitions of war.

[Inhaltsangabe. — Kauf von Waffen und Munition Seitens der Vereinigten Staaten. — Kauf von Waffen und Munition Seitens der Confederirten Staaten. — Das Blockadebrechen und der Handel auf Nassau. — Falsche Auffassung der englischen Neutralitätsproklamation. — Die behauptete Kenntniss der Thatsachen auf Seiten der englischen Regierung. — Die Beschränkungen des Kohlenlagers auf Nassau.]

PART V.

The Sumter and Nashville.

PART VI.

The Florida and Alabama.

PART VII.

The Georgia and Shenandoah.

PART VIII.

The Clarence, Tacony, Archer, Tuscaloosa, Tallahassee, Chickamanga and Retribution.

PART IX.

Reception of Confederate Cruisers in British Ports.

PART X.

Conclusion.

Recapitulation of the Argument for Great Britain.

Her Majesty's Government has deemed it convenient, both in the Case which it has previously presented, and in this Counter-Case, to place before the Arbitrators, as clearly as possible, the nature and general limits of the questions which they are about to decide. || The comparatively novel character of these questions, the importance of them, the number and variety of the facts which may be supposed to bear on them, appeared to make this course not only convenient, but necessary; and the necessity has been enhanced by a circumstance peculiar to this controversy. The war which commenced in April 1861, and ended in May 1865, was a civil war; and it was hard, even for a Goverment which had again and again proclaimed itself neutral in similar contests occurring elsewhere, to reconcile itself to the assumption, in its own case, of the same attitude by other nations. Every occasion on which that neutrality had to be practically asserted, was painful, and perhaps naturally painful, to the United States. But neutrality, in a war wholly or partly maritime, is not, and cannot be, as regards maritime Powers, a merely negative condition. States, the most remote from the principal theatre of hostilities, may yet, through their shippinp, or their Colonial possessions, be brought into contact with those hostilities in various parts of the world, and questions will thus arise which cannot be avoided or put aside by mere inaction. In the Case of Great Britain, the points of contact, and therefore the occasions of complaint, were greatly multiplied by the diffusion of her maritime interests, the magnitude of her commercial marine, the number of her Colonies, the activity of her manufacturing industries, and the almost unbounded liberty which her laws allow to trade. The feelings of annoyance which the impartial neutrality of Great Britain excited, in many ways, and under many circumstances, in the Government and people of the United States, were, it was hoped by Her Britannic Majesty's Government, almost, if not quite, forgotten; these were matters, at all events, which neither this Government, nor probably any other, would have thought it right to refer to any Arbitrators, however carefully selected. But the claims which are submitted to the Tribunal are of a different character. The United States believe them just; Great Britain believes them erroneous. Both nations agree in regarding them as proper to be referred to an independent and impartial

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decision. Hence, the importance of separating these claims from the various matters of complaint or causes of dissatisfaction with which they were long associated in the diplomatic correspondence of the American Government and in the minds of the American people; and of keeping plainly and steadily in view the questions with which the Tribunal has actually to deal, and the facts and arguments which are properly and directly relevant to those questions. ‖ Adhering firmly to this distinction, Her Majesty's Government has, at the same time, not declined to meet and argue, within the limits prescribed by its own self-respect, and by its view of the proper scope of the reference to arbitration, the wider issues which the United States have thought proper to raise. ‖ Endeavours were made on the part of the United States to show that, in various matters which are not referred to the Arbitrators, the British Government had permitted violations of its neutrality in favour of the Confederate States, whilst it had been rigorous in refusing to the United States the enjoyment of corresponding advantages. The Arbitrators were asked to draw from hence a conclusion, which it was desired they should apply to the questions actually submitted to them for adjudication. ‖ These complaints related substantially to the traffic in arms and munitions of war, and other articles of commerce, carried on with Southern ports, from ports within the British dominions, and particularly from and through that of Nassau. The United States insisted also on the fact that the Confederate Government had agents in England for the purchase of what it required; and employed, as financial agents, a mercantile house in this country, to whom they remitted specie and cotton, and through whom their payments were made. But, on the part of Great Britain, it has been clearly proved that all these complaints are groundless. It has been shown that the United States, equally with the Confederate States, ressorted to England for necessary supplies of arms and munitions of war, and that they also had their agents here for making purchases, as well as for their financial transactions and for the disbursement of money. It has been shown that the traffic carried on with the two communities (which, for the time, they were), differed solely in incidental circumstances, which were the natural result of the overwhelming superiority at sea possessed by the United States, and which imposed no peculiar duties on the Government of Great Britain; that in all these matters no favour or accommodation was accorded to one which was denied to the other; and that the real substance of the complaints of the United States is, that Great Britain declined to assist by active interference the more powerful belligerent, and to thwart the endeavours of the weaker to obtain the necessary supplies, and that she from first to last persevered in holding an even hand between the two. In short, it is not that she departed from impartial neutrality in favour of the Confederacy, but that she refused to depart from it in the interest of the United States. If therefore, from this part of the conduct of Her Majesty's Government, a presumption is to be applied to any other part,

the legitimate presumption is, not that the Government would be discovered to deviate from the line of an impartial neutrality, but that it would scrupulously and steadily adhere to that line. || Is, then, this presumption found to fail, when we approach the questions which are really before the Arbitrators, and which relate exclusively to the particular vessels enumerated in the Case of the United States? Her Majesty's Government maintains that it is not. In the Case which it has presented, and in this Counter-Case, the British Government has fully stated to the Arbitrators the measures adopted to prevent the equipment in its ports of belligerent ships of war, and the departure from its ports of vessels specially adapted for warlike use and intended for the naval service of either belligerent; explaining at the same time the peculiar difficulties which, in a country like Great Britain, must always attend the enforcement of such a prohibition, the powers with which the Government was armed by law, and the restraints which the law imposed on it, — restraints judged expedient in England for the due security of property and civil liberty and for the proper administration of justice. All the cases of alleged or suspected equipment or warlike adaptation which occurred during the war have been stated in order to the Arbitrators; and they have thus been enabled to take a connected view of the manner in which these cases were dealt with by the Government, and the general course which it followed in regard to them. || In connection with this part of the subject the question naturally arises, what measure of care or diligence can reasonably be expected in matters of this kind from a neutral Government — or, to speak more exactly, ought to be held due from such a Government as a matter of international obligation. The United States have attempted to furnish a definition of this, which to the British Government appears not only to fail as a definition, but to exact more than neutral Powers could safely or rightly concede, and much more than has ever been practised by the United States themselves. In illustration of this, and for no purpose of recrimination or reproach, it has been found necessary to refer to the past and recent history of the United States, not only as being the Power which now produces this very strict definition of due diligence, but as the country which has been the principal seat and source of enterprises, such as those for which it now seeks to make Great Britain responsible. It has been necessary to exhibit the striking contrast between the course of the American Government in dealing with enterprises against friendly States within its territory renewed again and again, and always with impunity, during a long series of years, and the iron rigour of the rules it now seeks to enforce against Great Britain, the perfection of administrative organization it seeks to exact from her. The views of Her Majesty's Government as to what constitutes a reasonable measure of diligence or care have, in its Case and Counter-Case, been stated in general terms. But this Government has refrained from the attempt, in which the United States, as it conceives, have failed; and it has left the Arbitrators

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to judge of the facts presented to them by the light of reason and justice, aided by that knowledge of the general powers and duties of administrative government which they posses as persons long conversant with public affairs. || Proceeding to the several cruisers to which the claims of the United States relate, Her Majesty's Government has been compelled to observe, in the first place, that an award against Great Britain as to any one or more of them could not be supported by broad general allegations, but must be founded on some specific failure or failures of duty alleged and proved in respect of that ship or those ships; in the second place, that, in deciding whether a failure of duty was or was not committed, the Arbitrators have to consider, not what has since been discovered, or what the members of the Tribunal now know respecting these ships, but the information which the British Government actually possessed, or, by the exercise of reasonable care, ought to have possessed, at the time. They have to place themselves in the situation in which this Government then was, in order to judge fairly whether it failed in the performance of its duties. As to each vessel, the original outfit of which is made matter of complaint, they have to be satisfied, first, that she was, in fact, armed, fitted out, or equipped for war within the British territory, or specially adapted within it to warlike use; secondly, that the Queen's Government had reasonable grounds to believe that she was intended to cruise or carry on war against the United States; thirdly, that, having such reasonable ground of belief, the Government dit not use due diligence to prevent her equipment, or else to prevent her departure. It is not enough to prove one of these things, or two; it is necessary to prove all three of them. It has been further pointed out that, when we speak of a Government having reasonable grounds of belief (the matter in question being the prevention of an apprehended act by the enforcement of a law), we mean that it has more than a suspicion, founded on general rumour or mere probabilities; that it has reasons, which can be exposed in due time to the test of judicial inquiry, for such a belief as is sufficient to justify it in setting the machinery of the law in motion. || In the case of the Alabama it has never been denied by Great Britain that she was a vessel specially adapted by her construction for warlike use, nor that she was thus constructed in a British port. Nor is it denied that, at the time of her departure from England, the Government had obtained reasonable ground to believe that she was intended for the naval service of the Confederate States. But it has been shown that this necessary information was not put into the possession of the Government or its officers by the Minister or Consul of the United States until a very short time before the departure of the ship, either through a want of due diligence on their part, or (which is more probable) because they had not, up to that time, been able to procure it themselves. It has been shown, also, that no time was lost by the Government in consulting its legal advisers as to the sufficiency and credibility of this evidence, which was a question of rea-

sonable doubt; and that the order for detention which, in the event, came too late, was deferred only till their opinion should be obtained. It has been shown further that the information possessed by the Government related solely to the vessel herself, which was known to be unarmed, though adapted by her construction for war. Of the intended dispatch of arms for her nothing was communicated — by the officials of the United States. Her Majesty's Government submits to the Arbitrators that, on the facts stated and proved, no failure of duty has been established against Great Britain in respect of which compensation ought to be awarded to the United States. In the case of the Florida it has been shown that the British Government had not, at or before the time of her departure from England, any reasonable ground to believe that she was intended to cruise or carry on war against the United States, and that no information on which a reasonable belief could be founded, had, up to that time, been produced by Mr. Dudley or Mr. Adams. It has been further shown, that she was seized at the Bahamas by the authority of the Colonial Government; and, after a fair, open, and regular trial in a Court of competent jurisdiction, was released by judicial decree. And it has been likewise shown that the cruise, in which all her prizes were made, was commenced from the Confederate port of Mobile, in which port she was manned and fitted out for that cruise. Her Majesty's Government submits therefore that, in respect of this ship, no failure of duty has been established against Great Britain, on account of which compensation ought to be awarded to the United States. || In the cases of the Georgia and Shenandoah, it has been shown that neither vessel was armed, fitted out, or equipped for war, or specially adapted, either wholly or in part, for warlike use within British territory; and, further, that Her Majesty's Government had not, at the time when they respectively left England, any reasonable ground to believe that they, or either of them, were or was intended to cruise or carry on war against the United States. Efforts have, it is true, been made to show that the Shenandoah was enabled to ship a considerable addition to her crew at Melbourne, by the connivance or culpable negligence of the Colonial authorities; but this charge, which has nothing to do with the original outfit of the ship, and is one which from its nature would require to be supported by the clearest evidence, is not so substantiated, and is, on the contrary, disproved by the facts. No failure of duty has been established against Her Majesty's Government in respect of either of these vessels. || In the case of the Tallahassee and Chickamauga, it has been seen that no failure of duty has been even alleged, much less proved, against Great Britain. The vessels were built, indeed, in England, but they were built and used as ships of commerce; it was by an afterthought that they were armed for war; and their employment as ships of war lasted but a few weeks in the one case, and but a few days in the other. They were armed in, and dispatched from, a Confederate port, and to the same Confederate port they returned. || The

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Sumter and Nashville were not even built in the Queen's dominions; and, in respect of their original outfit, nothing is, or can be, alleged against Her Majesty's Government. Setting aside some other minor complaints, which will not bear a moment's examination, it is suggested only that they received in British ports such hospitalities as were extended to Confederate vessels in general in the ports of neutral nations. || In the case of the Retribution, the facts alleged show nothing more than that her commander contrived on one occasion, by fraudulently personating the master of a prize captured by him, and concealing the fact that she was a prize, to dispose of the cargo in a small island of the Bahama Archipelago, remote from the seat of Government; and that, on another occasion, by means of a fraudulent conspiracy with a party of "wreckers", he managed to carry a prize into the same place and to extort, through the wreckers, from her master and owners, a ransom, under pretence of salvage. These facts, if proved, establish no failure of duty against Great Britain. || Her Majesty's Government deems itself entitled to observe that the later cases in this list throw a strong light upon the earlier ones. They show very clearly what are the views of international obligation and international justice on which the claims of the United States are founded. If Great Britain is liable for the captures of the Tallahassee and Chickamauga, what necessity is there for endeavouring to show that, in those of the Florida and Alabama, the British Government had reasonable ground to believe, or even to suspect, the existence of an unlawful intention? If she is liable in those of the Sumter and Nashville, it is superfluous to prove even equipment or construction in British territory. If she is liable for the Retribution, what need, it may be asked, of any definite charge, of any proof or evidence at all? || It must not be forgotten that, besides the various cruisers in respect of which claims are now made by the United States' Government against Great Britain, there were at least ten others which were fitted out and sent to sea from Confederate ports in the course of the war (the Calhoun, Jefferson Davis, Savannah, Echo, St. Nicholas, Winslow, York, McRae, Judah, and Petrel): and that by at least eight of these depredations were committed upon the merchant shipping of the United States.[1] There were also the Boston and the Sallie, which are included (without any apparent reason) in the Summary of Claims contained in Vol. VII of the Appendix to the Case of the United States, but of which, in the Case itself, no mention is made. || It will not have escaped the notice of the Arbitrators that the cases of the Florida and Alabama occurred at a very early period of the war; that of the Florida occurred in the first year of it, that of the Alabama very soon afterwards, and before the true character of the Florida, or the purpose for which she was destined, was or could be known in Eng-

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[1]) See the general list of Claims filed in the Department of State of the United States: Appendix to Case of the United States, vol. IV, p. 446, *et seq.*

land. In dealing with a charge of negligence brought by one nation against another, this is a material fact. A Government, which finds itself compelled by the outbreak of civil war in another country to assume the character of a neutral, must learn, by practical experience, the necessity for various measures of precaution which were never called for before. The United States therefore find it necessary to allege more than this, and to charge the British Government with a want of promptitude and activity continued after circumstances had proved this need of unusual precautions. And, in connection with this charge, and as a proof of it, they have dwelt on the fact that no alteration was made, during the war, in the laws of Great Britain, although the Government of the United States is alleged to have asked that these laws might be made more effective. || Her Majesty's Government has to observe upon this point that the United States have failed, or forborne, to point out wherein the law of Great Britain required alteration, — and this for a very plain reason. || The law of Great Britain on this subject was stricter and more comprehensive in some of its prohibitions, and more severe in some of its penalties, than the corresponding law of the United States; and, except in those points in which the British law was of superior efficiency, both were substantially the same. . . . .

But it must be observed further, that a State is under no obligation to make changes in its laws at the instance of another State. All that it has to do, is to take care that its international obligations are fulfilled. Were not the international obligations of Great Britain fulfilled from 1862 to 1865? The Arbitrators have had ample proof that they were so. Ship after ship was seized and detained — at what cost in some cases, and under what circumstances of difficulty, they have already seen. No armed vessel at any time sailed from a British port for the service of the Confederates. From July 1862 to the end of the war, not a single vessel equipped or specially adapted by construction or otherwise for war, was able to leave any British port for the Confederate service; and not a single vessel, of which the Government had any information, sailed, even without warlike equipment or adaptation, with the intention that she should be employed in that service. In the documents produced by the United States there are repeated statements to the effect that many formidable vessels had been contracted for by the agents of the Confederate States in England. What became of these contracts? They appear to have been abandoned, and the Confederate Government had recourse to France, whence, though foiled in some other instances, they obtained the ironclad, Stonewall. || This charge therefore vanishes, and the decision of the British Government not to propose any alteration of its laws to Parliament whilst a war was in progress, but to reserve the whole question for later and more deliberate consideration, can certainly afford no cause of complaint to the United States. || There is, however, another class of charges, quite distinct from those reviewed above, by

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accumulating which it is apparently sought, in the Case of the United States, to make good the deficiencies of the latter. These relate to the hospitalities afforded in ports of the British Empire to Confederate cruisers, and to the undue favour or partiality which is alleged to have been shown to them by the local authorities. The Arbitrators know what is the general character of these complaints. That a vessel of war may have contrived to ship a few more tons of coal, or a few more casks of beef or biscuit, or to stay in port a day or two longer, than strict necessity required — that precautions which ought to be needless in dealing with naval officers (who are men of honour), may sometimes have been omitted or not suspiciously enforced — that any civility, of the most trivial and ordinary kind, was extended to the commander of a Confederate vessel — these are the grievances on which the United States ask a Tribunal of Arbitration to pass judgment, and on which they rely as assisting their claim for compensation against Great Britain. || It is evident that, if all these complaints could be proved, they would not support a demand for compensation: nor are they really within the scope of the reference to Arbitration. || The restrictions which were imposed by the Queen's Regulations on belligerent vessels, entering ports within her dominions, were not required by international law. They were made, and they might have been revoked, in the exercise of those discretionary powers which are vested in all Sovereign Governments. All that Great Britain owed the United States on this score was, that they should be enforced, fairly and impartially, on both belligerents alike. In the section of this Counter-Case which has been devoted to that subject, all these complaints have been reviewed and answered, in a manner which Her Majesty's Government would fain hope will prove convincing, not only to the Arbitrators, but to the United States. It would, indeed, be no matter of surprise, and would afford no great occasion for censure, if it should be found that, among the widely scattered colonial possessions of the British Empire, some errors of judgment had been committed, and that difficulties new to the local authorities, and often very embarrassing, had not always been satisfactorily met. But it must surely be plain to every one who reads this recital, that the Governors of the various British colonies executed the regulations to the best of their judgment and ability, and with thorough impartiality as between the two belligerents. It is difficult, indeed, to avoid the conclusion that these complaints spring from imperfect information. When, for example, it is asserted that the cruisers of the United States were virtually excluded from the chief port of the Bahama Islands, in favour of Confederate cruisers, and we discover that these islands were thirty-four times visited by the former, whilst Nassau was but twice visited by the latter — or, when the quantity of coal obtained by Confederate ships is made a matter of complaint, and we find that a single United States' vessel, within six weeks, contrived to procure from three British ports more than two-thirds of the amount ascertained to have been

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purchased within Her Majesty's dominions by all the Confederate ships together during the whole course of the war, can we doubt that the Government of the United States is labouring under serious misapprehensions? The British colonies were, it is true, often resorted to by belligerent vessels of war; but their most frequent visitors were cruisers of the United States: and, if infractions of Her Majesty's regulations were sometimes committed, these cruisers were the most frequent offenders.

Compensation claimed by the United States. General Principle.

The British Government then, on this summary review of the facts and arguments adduced by the United States, submits to the Arbitrators that no failure of duty has been established against Great Britain in respect of any of the vessels enumerated in the Case. But, since the Arbitrators are to judge, and, as it is necessary for every party to an Arbitration to contemplate the possibility that on some points the award may not be in his favour, something ought here to be said on the claims for compensation urged by the United States, and on the proper mode of dealing with such claims. || Her Majesty's Government readily admits the general principle that, where an injury has been done by one nation to another, a claim for some appropriate redress arises, and that it is on all accounts desirable that this right should be satisfied by amicable reparation, instead of being enforced by war. All civil society reposes on this principle, or on a principle analogous to this; the society of nations, as well as that which unites the individual members of each particular commonwealth. But the general principle carries us but a little way. Before it can be applied in practice various considerations interpose themselves, which are as necessary to guard against injustice in one direction, as the principle itself is to prevent or remedy it in another. It is not necessary to enumerate all these considerations. Here it is enough to say, that the reparation claimed should never exceed the amount of the loss which can be clearly shown to have been actually caused by the alleged injury; and that it should bear some reasonable proportion, not only to the loss consequent on the act or omission, but to the gravity of the act or omission itself. A slight default may have in some way contributed to a very great injury; but it is by no means true that, in such a case, the greatness of the loss is to be regarded as furnishing the just measure of reparation, without regard to the venial character of the default. It is needless to show this by examples. Many illustrations of it will suggest themselves to the minds of the Arbitrators. || There may be cases, doubtless, in which considerations of this kind do not demand to be taken into account. But it is manifest that they apply very forcibly to defaults such as are charged, and claims such as are made, by the United States against Great Britain. The substance of the charge in this class of cases is, that a belligerent has

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been enabled to make use of some spot within the neutral territory for purposes of war, through a relaxation of the care which the neutral Government ought to have exerted to prevent it. It is not true, that the default of the neutral is the cause of the losses sustained. It is certainly not the *causa causans:* it need not even be the *causa sine quâ non.* The most that can be alleged is, that, if greater diligence had been used, those losses might perhaps been prevented, and, at all events, would not have happened by the same means and in the same way. The losses complained of are losses inflicted by the ordinary and legitimate operations of war, which are alleged to have been facilitated by the neglect of the neutral. But the active and direct agent in the infliction of loss is the belligerent, and he inflicts it in ways which, as between him and his enemy, are lawful; the only share in it which can be ascribed to the neutral is indirect and passive, and consists in an unintentional omission. Further, if we attempt to pursue this share of liability, springing from neglect alone, through the operations, naval or military, to which the neglect is alleged to have contributed, — through successive battles, through a cruise or a campaign, — we see that it escapes from any precise estimate, and soon loses itself among the multitude of causes, positive or negative, direct or indirect, distinct or obscure, which combine to give success to one belligerent or the other, and to which the proverbial uncertainty of war is due. This is clearly seen when the principle is applied to the case of a ship which has been armed or adapted for war, or has had her warlike force augmented, in neutral territory. We speak, for the sake of brevity, of the "acts" of a ship, of prizes made or losses inflicted by her, as if the power and the responsibility of doing hurt adhered to the vessel herself. But the acts of a ship are the acts of the persons who have possession and control of her; the ship herself — which is only a vehicle of wood or iron, serving, if armed, the purpose of a floating fortress — is but the instrument or rather one of the instruments, with which those acts are done. || The same thing is seen more clearly still when we come to apply the principle to cases where the equipment or adaptation is manifestly but partial. A danger here arises of being misled by a false analogy. Any equipment, however partial, in a neutral port, such as the shipping of a gun, the cutting of a port-hole, the addition of a magazine or shell-room to the internal fittings of a ship, might justify the neutral Power in restoring all prizes made by her during the cruise to which the partial equipment was applied, and afterwards brought within the neutral territory. The ground on which the restitution is decreed here is, that there has been a violation of the neutrality of the territory; and it matters not whether that violation were great or small. But if, in such a case, it be possible to show that the partial equipment had been made through neglect on the part of the authorities of the port, and if reparation for the neglect be demanded, how are we to assess the liability of the neutral? To assign the whole damage which the

ship may do during her cruise to the neglect of the neutral, would be extravagantly unjust: to allot with precision any specific proportion of it to the same cause, would almost certainly be impracticable. ‖ Further, when the neutral country from which a ship of war, or an equipment, or an augmentation of force has been obtained, is only one of several countries to which the belligerent has access for similar purposes, it is impossible to assume, that the consequence of the prevention of a particular adventure of this kind would have been to deprive that belligerent of the means of accomplishing his purpose: its only effect might have been, to change the immediate direction of his endeavours. Thus, in the case of the rams at Birkenhead, the responsibility arising out of the contract between the builders and Bullock, was sought to be got rid of, by a transfer of the benefit of that contract to a Frenchman, named Bravay, who pretended that his object was to dispose of them to other Powers, and not to the Confederate States; and when the Confederate agents found it impracticable to obtain those vessels from a British port, they succeeded in procuring, and carrying to sea, another similar ram, the Stonewall, from a port in France. ‖ When any vessels, whether procured from Great Britain, or otherwise obtained, had become Confederate ships of war, the duty of repelling their hostile proceedings by all proper and efficient means (like the rest of the operations necessary for the conduct of the war), devolved exclusively upon the United States, and not upon the British Government. Over the measures taken by the United States for that purpose, Great Britain could exercise no influence or control; nor can she be held responsible, in any degree, for their delay, their neglect, or their insufficiency. Any want of skill or success, even in the operations by land, would have the effect of prolonging the period during which cruises of this nature could be continued. All losses, which might have been prevented by the use of more skilful or more energetic means, ought justly to be ascribed to a want of due diligence on the part of the Government of the United States, and not to any error, at an earlier stage, of the British Government. *Causa proxima, non remota spectatur.* ‖ In short, there are difficulties of no inconsiderable force in holding that defaults of this class draw with them any definite liability to make pecuniary reparation. It is difficult — very often it is practically impossible — to ascertain, with any approach to accuracy, what measure of loss ought with justice to be ascribed to the default complained of, or even, perhaps, whether it was a substantial cause of any loss at all. ‖ For this reason, probably, as well as from the reluctance usually felt to bring accusations of negligence against a friendly Government, claims such as the United States now urge against Great Britain have rarely been made; and have never, so far as Her Majesty's Government is aware, been conceded or recognized. Where prizes made by vessels armed for war, or which have augmented their warlike force, within neutral territory, have afterwards been brought within the jurisdiction of the neutral, it

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is the acknowledged right, and it may be the duty, of the neutral Power, to cause them to be restored on application. Beyond this point, no recognized neutral authority or established precedent has hitherto extended the liability of the neutral. ‖ If the conduct of the United States under similar (or, rather, under much stronger) circumstances, were made the measure of their right to indemnification in the present inquiry; if the rule of compensation were sought in the precedent (to which they have themselves, in their own Case, appealed), of the Treaty of 1794, between the United States and Great Britain, and in the decisions of the Commissioners under the VIIth Article of that Treaty, no pecuniary compensation whatever could be found due from Great Britain for any captures made at sea, and not brought into British ports; although the vessels which made those captures may have been illegally fitted out in, and dispatched from, British ports, through some want of due diligence on the part of British authorities. ‖ If the relative positions of the Government of the Confederate States and its officers, to whose acts the losses in question are directly attributable, and of the British Government (whose neutrality they violated), towards the United States who now make these claims, are justly estimated, the more difficult it will be to see how (upon the supposition of a want of due diligence on the part of Great Britain, in guarding her own neutrality), any pecuniary compensation whatever can be claimed from Great Britain. The whole responsibility of the acts which caused these losses, belonged, primarily, to the Confederate States; they were all done by them, beyond the jurisdiction and control of Great Britain; wrong was done by them to Great Britain, in the very infraction of her laws, which constitutes the foundation of the present claims. But from them, no pecuniary reparation whatever for these losses has been, or is now, exacted by the conquerors: what has been condoned to the principals, is sought to be exacted from those, who were, at the most, passively accessory to those losses, through a wrong done to them, and against their will. The very States which did the wrong are part of the United States, who now seek to throw the pecuniary liability for that wrong solely and exclusively upon Great Britain, herself (as far, at least, as they are concerned) the injured party. They have been re-admitted to their former full participation in the rights and privileges of the Federal Constitution; they send their members to the Senate and the House of Representatives; they take part in the election of the President; they would share in any benefit which the public revenue of the United States might derive from whatever might be awarded by the Arbitrators to be paid by Great Britain. On what principle of international equity can a Federal Commonwealth, so composed, seek to throw upon a neutral, assumed at the most to have been guilty of some degree of negligence, liabilities which belonged in the first degree to its own citizens, with whom it has now re-entered into relations of political unity, and from which it has wholly absolved those citizens?

The British Government, however, whilst deeming it right to present these considerations to the notice of the Arbitrators, will not omit to deal with the ulterior questions which must arise, in the event of the Arbitrators being of opinion that claims of this nature are not absolutely inadmissible, should the United States succeed in establishing any failure of duty sufficient to support them in the judgment of the Tribunal. Nor does it affirm that, in that case, no award of compensation ought to be made, unless the amount of loss properly assignable to the default can be estimated with exact precision. But it firmly maintains that the duty entrusted to the Tribunal would not be satisfied by finding, as to any particular ship, that Great Britain had failed to discharge some international duty, and then proceeding at once to charge her with all the losses directly occasioned to the United States by the operations of that ship. This, indeed, would be so manifest an injustice that it is needless to argue against it. Should the Arbitrators be satisfied that, as to any ship, and in any particular, there has been a clearly ascertained default on the part of Great Britain, it would then become their duty to examine wherein the default consisted, and whether it was a just ground for pecuniary reparation; and, if so, to determine the general limits of the liability incurred, having regard both to the nature and gravity of the default itself, and the proportion of loss justly and reasonably assignable to it. The liability thus determined, or the aggregate of such liabilities, as the case may be, constitutes, it is evident, the only just measure of the compensation, if any, to be awarded to the United States. The basis of the award must be the fact, established to the satisfaction of the Arbitrators, that certain losses have been sustained on the one side, which are justly attributable to certain specific failures of duty on the other, in respect of a certain ship or ships; and the basis of the award must also be the basis for computing the sum to be awarded. The power of awarding a gross sum does not, it need hardly be observed, authorize the Arbitrators to depart, in substance, from this basis, although it may relieve them from the necessity of a minute inquiry into the particulars of alleged losses, and from intricate and perhaps inconclusive calculations. || The Arbitrators will have observed the manner in which these claims are dealt with in the Case of the United States. Specific failures of duty on the part of Great Britain are alleged in respect of each of the vessels enumerated. Great Britain is then charged indiscriminately with all the losses occasioned by the acts of all the vessels, and, in addition, with expenses said to have been incurred by the Government of the United States in vainly endeavouring to capture them. Thus, the Florida and Alabama were obtained as unarmed vessels from England; one was armed in Portuguese waters, the other was manned and made capable of cruising in a Confederate port. Great Britain is called upon to pay for all the losses which can be attributed to the Florida and Alabama — nay more, for all losses occasioned by other vessels, which were captured and armed at sea by the commanders

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of those cruisers. The Tallahassee was built as a trading vessel in England, and was afterwards converted into a ship of war in the Confederate States; — this country is to pay for all the captures of the Tallahassee. The Sumter received ordinary hospitalities in a British port; and Great Britain is to be charged with captures made by the Sumter. Interest on the amount of these losses and expenses is also asked for, to be computed at seven per cent. per annum from the 1st July, 1863, a date long antecedent to the dates at which a large proportion of the alleged losses and expenses are stated to have been incurred. || In calculating the losses themselves, which is a separate branch of the question, the American Government appears to have presented, without discrimination, all claims which any persons alleging themselves to have been interested in captured ships or cargoes have thought proper to make. Claims are also presented for public property of the United States, captured or destroyed by some of the Confederate cruisers, and further for expenditure stated to have been incurred in the "pursuit" of these cruisers. || The claims presented under these three heads have been referred for examination to Departments of Her Majesty's Government conversant with the classes of matters to which the claims relate; and the results of this examination are embodied in two Reports, to which Her Majesty's Government requests the attention of the Arbitrators.

[Folgen Auszüge aus diesen Berichten betreffend die geltend gemachten Privatverluste und die geltend gemachten Verfolgungskosten.]

Claim of the United States for Interest.

On the claim for interest, which is advanced by the United States, Her Majesty's Government must observe, that it is, in principle, untenable. The claims referred to the Arbitrators are, it must not be forgotten, claims of the United States, not of private persons, against Great Britain, although a large proportion of them may represent losses alleged to have been sustained by private persons. Interest, on general principles recognized in the jurisprudence of all countries, and founded on reason, can be claimed only (in the absence of a specific agreement) where a debtor is *in morâ;* that is, where default has been made in payment of a liquidated debt at the time when it ought by law to have been paid, there being no *mora accipiendi,* or delay interposed on the part of the creditor. It is evident that these conditions do not apply to a case in which a mass of doubtful claims, of unascertained amount, have been made by one nation against another, have from time to time been the subject of negotiation, and are at length referred to Arbitrators. It is through no fault of Her Majesty's Government that these claims were not submitted to arbitration in 1867, or again in 1869; and it is not for the United States, which five years ago refused to agree to a reference, and three years ago refused to ratify a Treaty actually con-

cluded for this purpose by their Representative in England, to insist on a delay, of which they were themselves the cause, as a ground for increasing their demands upon Great Britain.

Recapitulation of preceding Remarks on the Measure of Compensation.

To recapitulate what has been said on this branch of the subject: — || The losses which may be taken into account by the Arbitrators are at the utmost those only which have directly arisen from the capture or destruction, by one or more of the cruisers enumerated in the Case, of ships or property owned by the United States or by citizens of the United States, and the extent of the liability of Great Britain for any such losses cannot exceed that proportion of them which may be deemed justly attributable to some specific failure or failures of duty on the part of her Government in respect of such cruiser or cruisers. || It is the duty of the Arbitrators, in deciding whether claims for compensation in respect of any particular default are tenable, and on the extent, if any, of liability incurred by such default, to take into account not only the loss incurred, but the greater or less gravity of the default itself, and all the causes which may have contributed to the loss, and particularly to consider whether the alleged loss was wholly or in part due to a want of reasonable activity and care on the part of the United States themselves. || The claims for money alleged to have been expended in endeavouring to capture or destroy any Confederate cruiser are not admissible together with the claims for losses inflicted by such cruiser. || The claims for interest are not admissible. || Should the Tribunal award a sum in gross, this sum ought to be measured by the extent of liability which the Tribunal may find to have been incurred by Great Britain on account of any failure or failures of duty proved against her. || The estimates of losses, public and private, presented by the United States are so loose and unsatisfactory, and so plainly excessive in amount, that they cannot be accepted even as furnishing a *primâ facie* basis of calculation. The estimates of expenditure (were the claims on that head to be considered admissible) would likewise be found too unsatisfactory to serve a like purpose. || Her Majesty's Government is sensible that, should the Arbitrators find it necessary to approach this question, they will probably find it one of no inconsiderable difficulty. The foregoing considerations are intended to circumscribe it, at least, within just and reasonable limits, and, subject to these considerations, the British Government leaves it to the impartial judgment of the Tribunal.

In concluding this Counter-Case Her Britannic Majesty's Government thinks it right to advert, in a few words, to considerations which invest this controversy with an importance not, perhaps, so great as is ascribed to it

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in the Case of the United States, but sufficient to make it a matter of profound general interest. The discussion turns on the duties and responsibilities of neutrals; and the field of discussion embraces questions of principle, questions of fact, and questions of peculiar moment respecting the application of principles to facts. The United States have asked the sanction of the Arbitrators to conceptions of neutral duty, and still more of neutral liabilities, which, to the British Government, appear to be fraught with grave consequences, and to demand serious attention. These views, theoretically stated in an earlier part of the American Case, are embodied in a practical shape by the charges advanced against Great Britain; and they assume a still more formidable aspect when they are invoked to support large claims for pecuniary reparation. For the first time in history, as the British Government believes, it has been seriously insisted that every act or omission, however doubtful or insignificant, on the part of a neutral Government or its officers, which could be construed by a belligerent into a deviation from the line traced out for neutrals by international law and practice, may be made the foundation for pecuniary demands upon the neutral Power, such as are now urged against Great Britain. If this be so, it becomes a matter of the highest moment that the rules binding on neutrals should be simple and few. But what, according to the Case of the United States, must be the ordinary situation of a neutral in a maritime war? It must be a situation of perpetual and unremitting anxiety, surrounded by dangers, harassed by a crowd of new obligations unknown in peace, which nothing short of sleepless vigilance will satisfy, whilst any lapse in the performance of them, on the part even of a subordinate officer, is to be visited with heavy national penalties. The transactions of private commerce must be made the object of minute inquisition and incessant supervision; private persons, suspected of being agents of either belligerent, must be tracked, when within the neutral country, by spies and informers; trade with the belligerent nations must be fettered by restraints and prohibitions; the hospitalities ordinarily extended to belligerent ships in ports of the neutral must be guarded with precautions, for the strict enforcement of which no honesty or zeal on the part of the local authorities can afford an adequate guarantee. Laws and regulations enacted by the neutral nation with a view to its own protection, far from being a means of security, become an additional source of danger, when they are liable to be construed as acts by which the neutral establishes as against himself, by admission or otherwise, a new class of international obligations. Is this picture overdrawn? It can hardly be thought so, when we pass in review the various articles of the long indictment preferred by the United States against Great Britain, and the statements and arguments which have been used in support of them. || It is evident that, if these principles were to be generally adopted, the only prudent course for neutral powers would be to enact no regulations, repeal all laws which could be interpreted as admissions

against themselves, exclude all belligerent vessels of war from their ports, prohibit all traffic with belligerent nations. But even this would not be enough, since it is difficult — perhaps, impossible — for maritime States, by any legislative or administrative precautions, to isolate themselves and their subjects completely from all contact with a maritime war. States, especially the less powerful, would be tempted to abandon a position so precarious, and menaced by such heavy penalties; to choose, in preference, the certain evils of war itself; and to seek protection in an alliance with one belligerent or the other. ‖ The British Government is convinced that the Arbitrators will not give any sanction to views of neutral obligation, to which not even the authority of this Tribunal could secure the general assent of neutral Powers. Nay, the British Government is persuaded that these extreme views, though, for the sake of argument, they have been insisted on in the Case of the United States, are not thoroughly realized, and would never, in practice, be accepted as binding, by the United States themselves. ‖ The conceptions of neutral duty which have been stated to the Arbitrators on the part of Great Britain are those on which she has constantly acted, and is prepared to act in future, and which she believes to be upheld by reason, by authority, and by the general consent of nations. It is the right of a State which remains at peace, whilst others are at war, that its relations with foreign countries, and the duties it owes to them as a member of the society of nations, should, as far as is possible, continue to subsist unaltered by discords from which it stands aloof, and wherein it has no share. Impartiality in act; the exercise of reasonable care to prevent itself from being made, even against its will, a virtual participant in the war, whilst claiming the advantages and immunities of peace; this is all that the neutral is bound to give, or the belligerent entitled to require. Great Britain has laid before the Arbitrators, with a fulness and minuteness of detail rendered necessary by the long train of accusations she has had to meet, the acts of her Government and of its officers, and every ascertained fact and circumstance which can be material to a decision; and she leaves with confidence to their judgment, and to that of the world, the question wether her obligations as a neutral were not fairly discharged towards the United States during the Civil War. ‖ Finally, Her Britannic Majesty's Government desires to express its earnest hope, in which it is assured that the Government of the United States will cordially share, that the frank and open statement of facts as they actually occurred, may effectually remove every misunderstanding between nations allied by innumerable ties to one another.

Nr. 5024.

VEREINIGTE STAATEN von AMERIKA. — Note addressed to the Arbitrators and to the Agent of Her Britannic Majesty by Mr. Bancroft Davis, Agent of the United States. — Ueberreichung des amerikanischen Counter-Case.

Geneva, April 15, 1872.

Nr. 5024. Ver. Staaten. 15. April 1872.

The Undersigned, Agent of the United States, appointed to attend the Tribunal of Arbitration convened at Geneva under the provisions of a Treaty concluded at Washington, May 8, 1871, between the United States and Her Britannic Majesty, has the honour, in compliance with the provisions of Article IV of the Treaty, to deliver herewith, in duplicate, to Lord Tenterden, the Counter-Case of the United States, and additional documents, correspondence, and evidence, in reply to the Case, documents, correspondence, and evidence presented to the Tribunal of Arbitration by the Government of Her Britannic Majesty. || The Undersigned, etc.

J. C. Bancroft Davis.

Nr. 5025.

VEREINIGTE STAATEN von AMERIKA. — Counter-Case of the United States.

Nr. 5025. Ver. Staaten. Counter-Case. 15. April 1872.

The IVth Article of the Treaty of Washington permits each Party, within four months after the delivery of the Case, to deliver in duplicate to the Arbitrators and to the Agent of the other Party, a Counter-Case and additional Documents, Correspondence, and Evidence, in reply to the Case, Documents, Correspondence, and Evidence presented by the other Party. || Availing themselves of this right, the United States present this as their Counter-Case, together with additional Documents, Correspondence, and Evidence in reply to the Case, Documents, Correspondence, and Evidence submitted by Her Majesty's Government. || In laying this Counter-Case before the Tribunal of Arbitration, they deem it proper to premise that they do not consider it within the province of this paper to discuss all the propositions within the British Case which they regard as justly disputable or requiring argumentative discussion. So far as the propositions taken by Her Majesty's Government in its Case vary from those which the United States had the honour to lay before the Tribunal in their Case, they respectfully refer to that document for an expression of the views which they regard as supported by sound principles of reason and by the acquiescence of other Powers, and by the writings of publicists of authority. || So far too as contestations of questions

of fact are raised between the Parties, on their respective Cases and the supporting evidence on either side, a mere renewal of the contestation in the Counter-Case would by superfluous. The United States, therefore, refer to their original Case for their views and estimates of the contested matters of fact. || It has seemed to them to be more in accordance with the spirit of the Treaty and with the convenience of the Tribunal, thus to reserve for their Counsel the general analysis and discussion of these matters, so far as they shall prove important in their bearing upon the substantial controversy between the Parties, in the Argument which will be prepared by them for submission under the Vth Article of the Treaty, and in such oral arguments, if any, as the tribunal may express a wish to hear. || Reserving, therefore, their rights and the freedom of their Counsel in these respects, they ask the attention of the Tribunal to the following observations upon some of the main points of difference between the Case and other matter submitted on the part of Her Majesty's Government, and those submitted on the part of the United States.

I.

Certain errors of sense, which run through the Case of Her Majesty's Government, first claim attention. || 1. It is assumed in that Case that the rebels of the United States were, by Her Majesty's Proclamation of May 3, 1861, invested with some undefined *political* attributes. But the United States have hitherto understood that Her Majesty's Government merely assumed to regard the persons who resisted the power of the United States as a body of insurrectionists who might be recognized as clothed with belligerent rights at the discretion of neutral Powers. They therefore think it right to conclude that the frequent use in the British Case of language implying recognized *political* attributes in the insurrection is an inadvertence. || 2. Her Majesty's Government assume that the reclamations of the United States are to be confined to claims growing out of the acts of the Florida, the Alabama, the Georgia, and the Shenandoah. The claims growing out of the acts of the other vessels named in the American Case are regarded by the United States as also embraced within the terms of the Treaty. They form part of the claims generally[1]) known as the „Alabama Claims". They are enumerated in the fourth of a series of five volumes printed by order of the Senate of the United States, which are part of the "Documents, Correspondence, and Evidence," submitted with the Case of the United States. These volumes, when thus collected and printed, were entitled "Claims of the United States against Great Britain." It is believed that under that title they were in the library of the Foreign Office at London before Her Majesty's High Commissioners received their instructions. It may also be said, without impropriety, that

[1]) *Sic in orig.*

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under the same title they were on the table of the Joint High Commission during the negotiations which preceded the conclusion of the Treaty. The United States, therefore, while reasserting their construction of the language of the Treaty in this respect, feel that they have the right to ask the Arbitrators to assume that Her Majesty's High Commissioners had notice of and acquiesced in that construction. || 3. The United States are at a loss to understand why several observations are introduced into the British Case, which apparently aim to limit the operation of the three Rules of the Treaty. If by the principles of construction which are suggested, Her Majesty's Government intend to ask for a modification or change in those Rules, the United States cannot too strongly protest against it. || 4. It is averred in several places that some of the acts of which the United States complain were committed by American citizens. If these statements are introduced for the purpose of urging this fact as an excuse for the negligence of Her Majesty's officials, or for any other supposed relevant purpose, the United States will ask the Tribunal to take note that the "American citizens" referred to were criminals in the eye of American law, at the time when they were elevated to the rank of recognized belligerents against the United States by the act of Her Majesty's Government, an act in which the United States did not participate, and against which they have never ceased to protest. It would seem, therefore, to be impossible to impute to the United States any consequences of responsibility for the conduct of the persons thus described as „American citizens."

II.

Her Majesty's Government has also stated, in terms, many propositions, some of law, some of fact, some of mixed law and fact. || For the convenience of the Arbitrators the United States call attention to some of the leading points of difference between the two Cases, with the reservations heretofore made as to the points not noticed, and as to the rights of Counsel. || 1. The British Case seems to concede that a belligerent who has wronged a neutral by violating its sovereignty and by forcing it to take part, indirectly, in a war, may nevertheless, by some subsequent act (such as commissioning without the jurisdiction of the neutral a vessel of war improperly constructed within its jurisdiction) deprive the neutral of the right of taking cognizance of the original offence. || The United States suggest that such a right cannot be lost by the mere act of the offending belligerent. || 2. It appears to claim for vessels of rebels recognized as belligerents an exemption from national jurisdiction, which should be accorded, if at all, only to vessels of recognized sovereign Powers, to which Powers political representations can be made in case of violations of neutral sovereignty; and it ignores undoubted prerogatives of the Crown to exclude armed vessels from the national ports. || 3. It attempts to limit the operations of the words "due diligence" in a manner

inconsistent with principles of law well established on the Continent of Europe, in the United Kingdom, and in the United States. It sets up as the measure of care a standard which fluctuates with each succeeding Government in the circuit of the globe, viz., "such care as governments ordinarily employ in their domestic concerns." || 4. If the United States have correctly interpreted its somewhat vague language, on page 167, it asserts that, in a case like the present, a belligerent should be required to show on the part of a neutral, as a foundation for a claim for compensation, an absence of care nearly equivalent to witful negligence. The United States had notice that this points would be pressed by Her Majesty's Government. It had announced that its Case would be prepared partly under the direction of an eminent and learned publicist who had vigorously insisted upon it in his public writings on the neutrality of Great Britain in the American struggle. They therefore presented for the consideration of the Arbitrators certain facts exhibiting an unfriendly feeling towards them on the part of individual members of Her Majesty's Government during the contest, which might naturally lead to and would account for a want of diligence bordering upon wilful negligence. But, while thus anticipating this position of Her Majesty's Government's Case, they did not and do not assent to its correctness. They do not conceive that the law of nations tolerates the proposition that belligerents are required to submit, without redress, to the injuries of neutral negligence till it reaches the extremity suggested. || 5. The British Case attempts to narrow the international duties of a government to the exercise of the restraining powers conferred upon it by municipal law. || 6. It overlooks the obligation of the neutral to amend its municipal laws, when the powers conferred by such law prove inadequate for the performance of international duties. In this view the many statements in the British Case as to the actual internal distribution of powers in Her Majesty's Government, though interesting, are irrelevant in measuring its external obligations. || 7. The British Case proposes that the liability of Great Britain to make indemnity to the United States should be limited to the cases which the United States cannot show, by affirmative proof, that they actively and diligently exerted their naval power to prevent. The United States contend that such a proposed limitation has no just foundation in sound principles of International or other law.

III.

Part II of the British Case assumes to give an introductory statement of (1) "the events which attended and followed the commencement of the civil war in America;" (2) "the course pursued by Great Britain in relation to the war;" (3) the course pursued by "the other maritime powers" in relation thereto. Part III assumes to give a "statement on international rights and duties: on the powers which were possessed by Her Britannic Majesty's Government of preventing 'unlawful equipments,' and the manner

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and circumstances in and under which these powers were exercised during the war." ‖ The United States, with the reservation heretofore made, now call attention only to some of the principal points of difference, in this respect, between the Cases of the two Governments. ‖ 1. The United States insist that Her Majesty's Government is politically and historically in error in the assertion on page 6, that the contest terminated in 1865 in the complete reconquest of the eleven Confederated States. ‖ 2. If it be intended by the statement in page 7, that "in and soon after the month of May 1861, a number of armed ships were fitted out and sent to sea from ports in the Confederate States," to lead the Arbitrators to suppose that there was any insurgent vessel preying on the commerce of the United States when the Florida or when the Alabama escaped from Liverpool, the United States cannot too strongly protest that Her Majesty's Government is in error in this respect. ‖ 3. The United States have, in their Case, called the attention of the Tribunal to the acts of Belgium, Portugal, Russia and Prussia, which seem to have been overlooked by the authors of the British Case in their enumeration of the acts of the Maritime Powers. In regard to all the Maritime Powers, the Tribunal will doubtless observe that those which recognized the insurgents as lawful belligerents did so only after Great Britain, the principal Maritime Power, had elevated them, under the name of the "Confederate States," to this rank, and had thus conferred upon them all the substantial advantages which they could gain from a general recognition by the Maritime Powers. They will also observe that the other Governments did not recognize the title which the insurgents had taken for themselves. Thus, for example, the Proclamation of the Emperor of the French spoke of them as "States which pretend to form a Confederation;" the Circulars of the Dutch Government spoke of "the doubtful complications in the United States of North America"; „the existing disturbances in the United States of America"; and the Brazilian Circular expressly states that "the Confederate States have no legal existence." ‖ 4. It is stated on page 22 that, "by the United States' cruisers, the ports and waters of Her Majesty's Dominions were resorted to for coaling and other purposes more frequently than by vessels of the Confederate States." If by this it is intended to imply that, having regard to the great disparity of numbers between the vessels of the United States and those of the insurgents, the United States enjoyed to an equal extent with the insurgents the hospitalities of the British ports, or that, without regard to that disparity, those hospitalities were extended with an impartial neutrality to each, the United States emphatically deny it. ‖ 5. It is stated on page 25 that "the Acts of which the Government of the United States is understood to complain, belong to a class which have not commonly been made the object of prohibitory legislation," that" in few countries, or in none, according to the information received by Her Britannic Majesty's Government, did the law directly prohibit such acts, or make any definite provision for preventing

them at the time when this war began, except in the United States and Great Britain." The information of the United States on this point does not agree with that of Her Majesty's Government. They have the honour to refer the Tribunal to statements concerning the laws of Austria, Belgium, Denmark, France, Italy, the Netherlands, Portugal, Prussia, Spain, and Sweden and Norway, which will be found in the fourth Appendix attached to the Report of the Neutrality Laws Commissioners. This document will be found at the close of the third volume of the British Appendix, and in the fourth volume of the American evidence, between pages 126 and 128. They also refer to the documents and evidence herewith submitted regarding the laws of several Powers in Europe and America for the preservation of their neutrality. It will appear from all this evidence that acts such as those of which the United States complain, have been widely made the subject of positive legislation, and that in no country, except Great Britain, so far as the United States are advised, has it been assumed that proceedings under the Municipal or Local Laws are the measure of neutral obligations towards other Governments. || 6. On page 25, it is stated, with reference to the steps taken by President Washington, that "the measures adopted by the Executive of the United States to restrain these enterprises [the fitting out of French privateers] proved inadequate." In answer to this, the United States recall to the recollection of the Tribunal that the French Minister of that day contended that his Government derived the right to commission privateers from the ports of the United States from the provisions of the Treaty of 1778 between France and the United States, — a Treaty made at a time when Great Britain was at war with the United States. The repressive measures of President Washington were taken under a sense of the duties of the United States as a neutral under the Laws of Nations, and in the face of their particular duties under the Treaty, as construed by France. In the Memoir of Mr. Abbott (now Lord Tenterden) which will be found in the British Appendix at the end of vol. 3, it is stated that "the result of the publication of the Rules of the 4th of August [which were the measures adopted by the Executive referred to in the British Case] was that the system of privateering was, generally speaking, suppressed, though cases seem to have occurred until the arrival of M. Genêt's successor in February 1794, who disavowed his acts, and recalled the Commission he had granted to privateers." || 7. The remarks on pages 26, 27, and 28, regarding the manner in which the United States have at different times performed their duties as a neutral nation towards Spain, Portugal and other Powers, are stated to be made without any "intention of Her Majesty's Government to cast any reproach upon the Government or people of the United States." They are, however, apparently introduced for the purpose of inducing the Arbitrators to assume that the United States at some or all of those times did fail to use the diligence for the repression of hostile expeditions from their shores which ought to have

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been exercised, and which is required by the Rules of the Treaty of Washington. The United States would regard such an imputation as a reproach however intended by its authors. They have therefore determined to ask the Arbitrators to examine the further evidence on these points which they have the honour to submit herewith, although they cannot but recognize that the Arbitrators may justly feel that neither party ought to add to their arduous labours, by the introduction of statements and evidence wholly foreign to the issues submitted to their decision. The evidence now submitted by the United States regarding the performance of their international duties is voluminous and spreads over a series of years and a variety of incidents. It relates to the contest between Spain and her Colonies, to the war between Brazil and the Artigas Government — to struggles of Cubans for independence — to the war between Spain and the South American Republics — and to the Crimean war. In all these contests it became the duty of the United States to preserve their neutrality under difficult circumstances; often when the sympathies of large masses of their people were enlisted in opposition to the national obligations. Her Majesty's Government has thought it right to call in question the efficiency, while admitting the good faith with which the United States performed their duties in these trying circumstances. The evidence now submitted shows conclusively that Her Majesty's Government has been misinformed: that the United States did perform their duties as a neutral at those times with a fidelity and activity which, had they been imitated by Great Britain during the insurrection, would have made the present proceedings unnecessary. || 8. The United States unite with Her Majesty's Government in its remarks on page 27, calling attention to the fact that the President of the United States, at the request of the Portuguese Government, did, in 1817, recommend Congress to confer upon the Government not only power to punish offenders, but also power to prevent the commission of the offences, and that Congress did, in compliance with such request, confer such power in the Neutrality Acts of 1817 and 1818. || 9. The United States are at a loss to understand to what reference is intended by the words on page 28: "It is needless here to refer particularly to more recent instances of vessels fitted out in ports of the United States for expeditions against countries with which the United States were at peace. These instances are well known." Vague insinuations like these, without definite statement, allegation, or proof, furnish no foundation for an answer in the only form in which the Treaty permits the United States to defend themselves. || 10. The United States emphatically deny the statement on page 28 that their prohibitory laws "have been infringed by acts much more flagrant than any of those now charged against Great Britain." They feel confident that a fair consideration of the proof which they have offered, and of that which they now offer, showing the fidelity with which they have ever performed their international duties, will convince the Arbitrators that

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they have honestly, strenuously, in good faith, and with due diligence, striven to perform those duties. || 11. The United States think that Her Majesty's Government has been incorrectly informed regarding the United States' Statute of 1818, commonly known as the Neutrality Act. It is stated on page 29 that the British Act of 1819 is "more stringent, rigorous, and comprehensive than that of the United States." Her Majesty's Government does not say in what respect the superior stringency, rigour, and comprehensiveness of that Act is supposed to consist. If the British Act could have been suspended by the Act of the Crown, which is supposed to have been the case, it may at least be held to have furnished less permanent and certain remedies than the law of the United States. The United States think that the qualities of stringency, rigour, and comprehensiveness will be found in their law in a superior degree; and they call attention to the following points of comparison: — 1. Enlistments of British subjects only are made unlawful by the British Act; the American Act, on the contrary, makes all enlistments within the neutral jurisdiction unlawful, except naval enlistments of subjects of the enlisting belligerent, made on the deck of a vessel of the belligerent while within the neutral waters. 2. By executive and judicial construction, the words "equip," "fit out," and "furnish" have received a much broader meaning in America than in Great Britain, as the United States have explained in their Case. 3. The 10th and 11th sections of the American Act, commonly known as the bonding clauses, are admitted not to be in the British Act. And it is also admitted that these clauses are intended to be preventive, not punitive. 4. The 8th section of the United States' Act is also omitted in the English Act. This section, the practical operation of which is explained in the Case of the United States, is regarded by them as by far the most efficient part of the Act for the prevention of violations of neutrality. 5. It may not have escaped the attention of the Arbitrators that Her Majesty's Government has itself furnished evidence of the superiority of the United States' Statute over the British Act. "I may remark," says Sir Frederick Bruce, the British Minister at Washington, writing to his Government, "that the Government of the United States has considerable advantages in proceeding against vessels under the Statute. They have, on the spot where the preparations are being made, the District Attorney, a legal officer responsible to the Government, to whom the duty of investigation is committed. The libel is in the nature of a proceeding in Admiralty *in rem*. It is decided by a Judge conversant with international and maritime law, without the intervention of a jury." || 12. Without questioning, in the Counter-Case, the correctness of propositions 1, 2, and 3 of English Constitutional Law, on page 30, the United States think that they are not mistaken when they say that the privilege which a witness is supposed to have of refusing to answer a question is a personal privilege, of which the witness may or may not avail himself. It is not supposed to be one which a Court will voluntarily

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take for him, and enforce against his wishes. || 13. In the statements on pages 31 and 32, regarding the supposed duties of the officials of the United States, "to keep a watchful eye on whatever might tend to endanger the security or interests of the United States," etc., it is not made quite clear whether Her Majesty's Government regard these as duties of which it had the right to demand performance of these officials, or as duties which they owed to their own Government. Although the latter interpretation would seem to be the most reasonable one, there is some ground to suppose that Her Majesty's Government has made the statement in the former sense. Without admitting it in that sense to be just, the United States insist that, even should such an obligation not be disputed, Her Majesty's Government would not thereby be relieved from the duty of an independent, diligent, and vigilant watchfulness, in order to prevent evil disposed persons from violating its neutrality. Nor would the Minister of a belligerent Power (as Mr. Adams was in the eye of the English Cabinet) be required, after the receipt of official information as to the nature and character of the evidence that must accompany his representations, to make, or complained of for not making, representations of fact to the neutral Government, except in the manner in which he had been notified to make them. Thus (to apply the proposition), Mr. Adams, being notified by the British Government that, in order to secure official action on a complaint of a contemplated violation of British neutrality by the insurgents, he must furnish proof of the fact sufficient to warrant conviction for a violation of the Foreign Enlistment Act, could not be charged by that Government with responsibility for not making representations embodying a lesser degree of proof. || 14. The United States do not understand that it is true that "allegations that vessels were being prepared for cruising or carrying on war", were in all cases followed by seizure of the vessels when sufficient *primâ facie* evidence of the illegal purpose was furnished. They understand exactly the contrary to have been the case: — that until the opinion of the Law Officers of the Crown, given on the 29th day of July 1862 (the day of the escape of the Alabama), all branches of Her Majesty's Government held that it was necessary not only to establish a preparation for cruising or carrying on war, but also an actual arming of the offending cruiser in a British port, in order to justify seizure, and that this prevailing opinion was afterwards sustained in effect by the Courts of England in the Alexandra case, which is still the unreversed judicial construction of the Act of 1819.

IV.

Part IV of the British Case assumes to state certain considerations proper to be kept in view by the Arbitrators, in reference to the Cases of the Florida, Alabama, Georgia and Shenandoah. || The United States have already made it clear, both in their Case and in this paper, that they regard

many of these statements as not "proper to be kept in view by the Arbitrators" in reference to any of these vessels. Without repeating their views on this subject, they confine themselves to calling attention to a great error into which the Arbitrators may be led in consequence of the use of inaccurate or careless language in the closing paragraph of this statement in the British Case. || It is there stated, that "Claims for the interference of Her Majesty's Government in the case of these and other vessels were based, according to the statement of Mr. Adams, in his letter to Earl Russell, dated 9th of October 1862, on evidence considered by him to apply directly to infringements of the Municipal Law, and not to any thing beyond it." || It is quite possible, perhaps it is not too much to say that it is probable, that the Arbitrators may derive from this statement the impression that all the official representations of Mr. Adams, in respect to these four vessels, were expressly based on evidence offered by him in support of allegations of infringements of the Municipal Law. The United States call attention to this, feeling confident that Her Majesty's Government will be anxious to exclude a construction of its language which is so little in accordance with the facts.

. . . .

IX.

On page 167 of the Case of Her Majesty's Government, it is said: "If the Tribunal should come to the conclusion that Great Britain has incurred any liability to the United States, the question will then arise what should be deemed the just measure and extent of that liability. Her Britannic Majesty's Government abstain at present from entering into that question, and will reserve such observations as may be fitly offered in relation to it to a later stage of the proceedings. Here it is sufficient to remark that a claim on the part of a belligerent to be indemnified at the expense of a neutral for losses inflicted or occasioned by any of the ordinary operations of war, on the plea that those operations were assisted or facilitated by negligence on the part of the neutral Government, is one which involves grave considerations, and requires to be weighed with the utmost care. Losses of which such negligence is the direct and proximate cause (and it is in the respect of such only that compensation could justly be awarded) are commonly not easy to separate from those springing from other causes." || The United States concur with Her Majesty's Government in the opinion that "a claim on the part of a belligerent to be indemnified at the expense of a neutral for losses inflicted or occasioned by any of the ordinary operations of war," "is one which involves grave considerations, and requires to be weighed with the utmost care." Without the explanatory observations which Her Majesty's Government reserves the right to make in a later stage of the proceedings, they cannot say how far they do or do not concur in the further

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statement that compensation can only justly be awarded by the Tribunal in respect to losses of which the negligence of the neutral is the direct and proximate cause. ‖ It appears to them, however, that certain general considerations may reasonably be assumed by the Arbitrators. 1. Both Parties contemplate that the United States will endeavour to establish in these proceedings some tangible connection of cause and effect between the injuries for which they ask compensation and the "acts committed by the several vessels" which the Treaty contemplates, are to be shown to be the fount of those injuries. 2. The Tribunal of Arbitration being a judicial body, invested by the Parties with the functions necessary for determining the issues between them, and being now seized of the substance of the matters in dispute, will hold itself bound by such reasonable and established rules of law regarding the relations of cause and effect, as it may assume that the Parties had in view when they entered into their engagements to make this reference. 3. Neither party contemplates that the Tribunal will establish or be governed by rules in this respect, which will either on the one hand tend to release neutrals from their duty to observe a strict neutrality, or, on the other hand, will make a course of honest neutrality unduly burdensome.

Leaving now the issues raised by the Cases and Counter-Cases of the two Governments to the arguments of Counsel and to the decision of the Tribunal, the United States repeat with a strengthened conviction the language with which they closed their Case: "It is in the highest interest of the two great Powers which appear at this bar, that the causes of difference which have arisen between them should be speedily and for ever set at rest. The United States entertain a confident expectation that Her Majesty's Government will concur with them in this opinion."

Nr. 5026.

GROSSBRITANNIEN. — Note addressed to the Arbitrators by Lord Tenterden, Agent of Her Britannic Majesty. — Verwahrung wegen des Streits über die indirecten Ansprüche.

Geneva, April 15, 1872.

Nr. 5026. Grossbritannien. 15. April 1872.

The Undersigned, Agent of Her Britannic Majesty, is instructed by Her Majesty's Government to state to Count Sclopis, that, while presenting their Counter-Case, under the special reservation hereinafter mentioned, in reply to the Case which has been presented on the part of the United States, they find it incumbent upon them to inform the Arbitrators that a misunderstand-

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ing has unfortunately arisen between Great Britain and the United States as to the nature and extent of the claims referred to the Tribunal by the Ist Article of the Treaty of Washington. || This misunderstanding relates to the claims for indirect losses put forward by the Government of the United States, under the several heads of — (1.) "The losses in the transfer of the American commercial marine to the British flag." (2.) "The enhanced payments of insurance." (3.) "The prolongation of the war, and the addition of a large sum to the cost of the war and the suppression of the rebellion." Which claims for indirect losses are not admitted by Her Majesty's Government to be within either the scope or the intention of the reference to arbitration. || Her Majesty's Government have been for some time past, and still are, in correspondence with the Government of the United States upon this subject; and, as this correspondence has not been brought to a final issue, Her Majesty's Government being desirous (if possible) of proceeding with the reference as to the claims for direct losses, have thought it proper in the meantime to present to the Arbitrators their Counter-Case (which is strictly confined to the claims for direct losses), in the hope that, before the time limited by the Vth Article of the Treaty, this unfortunate misunderstanding may be removed. || But Her Majesty's Government desire to intimate, and do hereby expressly and formally intimate and notify to the Arbitrators, that this Counter-Case is presented without prejudice to the position assumed by Her Majesty's Government in the correspondence to which reference has been made, and under the express reservation of all Her Majesty's rights, in the event of a difference continuing to exist between the High Contracting Parties as to the scope and intention of the reference to arbitration. || If circumstances should render it necessary for Her Majesty to cause any further communication to be addressed to the Arbitrators upon this subject, Her Majesty will direct that communication to be made at or before the time limited by the Vth Article of the Treaty. || The Undersigned, etc.

Tenterden.

Nr. 5027.

VEREINIGTE STAATEN von AMERIKA. — Note addressed to the Arbitrators by Mr. Bancroft Davis, Agent of the United States. — Gegenverwahrung des amerikanischen Agenten.

Geneva, April 15, 1872.

Nr. 5027. Ver. Staaten. 15. April 1872.

The Undersigned, Agent of the United States, has the honour to inform the Arbitrators appointed under the provisions of the Treaty concluded between the United States and Her Majesty on the 8th of May, 1871, that he

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has received from Lord Tenterden, the Agent of Her Majesty, a copy of a note this day addressed by his Lordship to each of the Arbitrators, in which it is averred that some of the claims put forth by the United States in their Case are not within the scope and intention of this reference. ‖ The instructions to the Undersigned from his Government not having contemplated the probability of such a course on the part of Her Majesty's Government, the Undersigned is compelled, in reply, to reserve to his Government its full right hereafter to vindicate before the Tribunal the authority which it understands the Tribunal acquired under the Treaty in this respect. ‖ The Undersigned, etc.

J. C. Bancroft Davis.

Nr. 5028.

GROSSBRITANNIEN und VEREINIGTE STAATEN von AMERIKA. — Protocol Nr. III. — Record of the Proceedings of the Tribunal of Arbitration at the Third Conference, held at Geneva, in Switzerland, on the 15th day of June, 1872.

Nr. 5028. Gross-britannien u. Ver. Staaten. 15. Juni 1872.

The Conference was held pursuant to adjournment. All the Arbitrators were present.

Lord Tenterden and Mr. J. C. Bancroft Davis attended the Conference as Agents of Her Britannic Majesty and the United States respectively.

Mr. J. C. Bancroft Davis then delivered in duplicate to each of the Arbitrators and to Lord Tenterden, the Agent of Her Britannic Majesty, a printed Argument, showing the points and referring to the evidence on which his Government relies.

Lord Tenterden then, on behalf of Her Britannic Majesty's Government, presented the note, of which a copy is annexed, requesting an adjournment of the Tribunal, for the reasons therein stated, for such a period as might enable a Supplementary Convention, to be concluded and ratified between Her Britannic Majesty and the United States.

Mr. Bancroft Davis stated that he could not say what would be the views of his Government on this motion, until he should known the time for which the adjournment was asked.

Lord Tenterden stated that Her Britannic Majesty's Government believed that, in order to afford time for the consideration of a Supplementary Convention by the Senate of the United States in their Session, commencing in December next, and for its subsequent consideration by Her Britannic Majesty's Government, and for its ratification by the High Contracting Parties respectively, it would be requisite that the adjournment should be for a period of eight months, but that power might be reserved for the Arbitrators

to meet at any earlier date, upon being convened for that purpose by the Secretary of the Tribunal, upon the joint request in writing of the Agents of the two Governments.

Mr. Bancroft Davis said that his instructions did not yet enable him to state to the Arbitrators the views of the Government of the United States on this motion in full. He said that he was in telegraphic communication with his Government, and he asked an adjournment until Monday, the 17th instant.

The Tribunal decided that the Protocols should be signed by the President and Secretary of the Tribunal, and the Agents of the two Governments.

The Conference was then adjourned to Monday, the 17th day of June, at two o'clock.

Frederic Sclopis.
Alex. Favrot, Secretary.

Tenterden.
J. C. Bancroft Davis.

Annex.

Geneva, June 15, 1872.

The Undersigned, Agent of Her Britannic Majesty, is instructed by Her Majesty's Government to state to Count Sclopis,[1] the Arbitrator named by His Majesty the King of Italy, that they regret to be under the necessity of informing the Arbitrators that the difference between Her Majesty's Government and the Government of the United States, referred to in the note which the Undersigned had the honour to address to Count Sclopis when presenting the British Counter-Case on the 15th of April last, has not yet been removed. || Her Majesty's Government have, however, been engaged in negotiations with the Government of the United States, which have continued down to the present time, for the solution of the difficulty which has thus arisen; and they do not abandon the hope that, if further time were given for that purpose, such a solution might be practicable. || Under these circumstances, the course which Her Majesty's Government would respectfully request the Tribunal to take, is to adjourn the present meeting for such a period as may enable a Supplementary Convention to be still concluded and ratified between the High Contracting Parties. || Having lodged the present application, the Undersigned is instructed to withhold the written or printed Argument, which the Undersigned as Agent of Her Majesty is directed to put in under the Vth Article of the Treaty, although that Argument has been duly prepared and is in the hands of the Undersigned. || The Undersigned is further

[1]) A similar note was addressed to each of the Arbitrators.

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directed to say that Her Majesty's Government (while they would consider the Tribunal to have full power to proceed at the end of the period of adjournment, if the difference between the High Contracting Parties should then have been removed, notwithstanding the non-delivery on this day of the Argument by the Undersigned), continue, while requesting this adjournment, to reserve all Her Majesty's rights, in the event of an agreement not being finally arrived at, in the same manner as was expressed in the note addressed by the Undersigned to Count Sclopis on the 15th of April. || The Undersigned, etc.

Tenterden.

Nr. 5029.

GROSSBRITANNIEN und VEREINIGTE STAATEN von AMERIKA. — Protocol Nr. V. — Record of the Proceedings of the Tribunal of Arbitration at the Fifth Conference, held at Geneva, in Switzerland, on the 19th day of June, 1872.

Nr. 5029. Grossbritannien u. Ver. Staaten. 19. Juni 1872.

The Conference was held pursuant to adjournment. All the Arbitrators were present.

Mr. J. C. Bancroft Davis and Lord Tenterden attended the Conference as Agents of the United States and Her Britannic Majesty respectively.

The Protocol of the last Conference was read and approved, and was signed by the President and Secretary of the Tribunal and the Agents of the two Governments.

Count Sclopis, as President of the Conference, inquired whether Mr. Bancroft Davis had yet received definite instructions from his Government.

Mr. Bancroft Davis replied that he had not.

Count Sclopis then, on behalf of all the Arbitrators, made the following statement: —

„The application of the Agent of Her Britannic Majesty's Government being now before the Arbitrators, the President of the Tribunal (Count Sclopis) proposes to make the following communication on the part of the Arbitrators to the parties interested.

"The Arbitrators wish it to be understood that, in the observations which they are about to make, they have in view solely the application of the Agent of Her Britannic Majesty's Government, which is now before them, for an adjournment, which might be prolonged till the month of February in next year; and the motives for that application, viz., the difference of opinion which exists between Her Britannic Majesty's Government and the Government of the United States as to the competency of the Tribunal, under the Treaty of Washington, to deal with the claims advanced in the Case of the United States in respect of losses under the several heads of: 1. 'The

losses in the transfer of the American commercial marine to the British flag;' 2. 'The enhanced payments of insurance;' and 3. 'The prolongation of the war, and the addition of a large sum to the cost of the war and the suppression of the rebellion,' and the hope, which Her Britannic Majesty's Government does not abandon, that if sufficient time were given for that purpose, a solution of the difficulty which has thus arisen, by the negotiation of a Supplementary Convention between the two Governments might be found practicable.

"The Arbitrators do not propose to express or imply any opinion upon the point thus in difference between the two Governments as to the interpretation or effect of the Treaty. But it seems to them obvious that the substantial object of the adjournment must be to give the two Governments an opportunity of determining whether the claims in question shall, or shall not, be submitted to the decision of the Arbitrators; and that any difference between the two Governments on this point may make the adjournment unproductive of any useful effect, and, after a delay of many months, during which both nations may be kept in a state of painful suspense, may end in a result which, it is to be presumed, both Governments would equally deplore, that of making this Arbitration wholly abortive. This being so, the Arbitrators think it right to state that, after the most careful perusal of all that has been urged on the part of the Government of the United States in respect of these claims, they have arrived, individually and collectively, at the conclusion that these claims do not constitute, upon the principles of international law applicable to such cases, good foundation for an award of compensation or computation of damages between nations, and should, upon such principles, be wholly excluded from the consideration of the Tribunal in making its award, even if there were no disagreement between the two Governments as to the competency of the Tribunal to decide thereon.

"With a view to the settlement of the other claims, to the consideration of which by the Tribunal no exception has been taken on the part of Her Britannic Majesty's Government, the Arbitrators have thought it desirable to lay before the parties this expression of the views they have formed upon the question of public law involved, in order that after this declaration by the Tribunal it may be considered by the Government of the United States whether any course can be adopted respecting the firstmentioned claims which would relieve the Tribunal from the necessity of deciding upon the present application of Her Britannic Majesty's Government."

Count Sclopis added that it was the intention of the Tribunal that this statement should be considered for the present to be confidential.

Count Sclopis then asked whether the Agents or either of them wished to say anything touching the declaration just made.

Mr. Bancroft Davis said that he was necessarily without instructions to meet the contingency which had arisen from the action thus taken by the

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Arbitrators. He therefore left it with the Tribunal to say whether, in view of this fact, it ought not, of its own motion, to make an adjournment sufficient to afford time for the proper consideration of the new position created by the announcement of the Tribunal.

The Tribunal then ordered this Conference to adjourn until Wednesday the 26th instant at 2 o'clock in the afternoon.

Frederic Sclopis.
Alex. Favrot, Secretary.

Tenterden.
J. C. Bancroft Davis.

Nr. 5030.

GROSSBRITANNIEN und VEREINIGTE STAATEN von AMERIKA. — Protocol Nr. VI. — Record of the Proceedings of the Tribunal of Arbitration at the Sixth Conference, held at Geneva, in Switzerland, on the 25th day of June, 1872.

Nr. 5030. Grossbritannien u. Ver. Staaten. 25. Juni 1872.

The Conference was held pursuant to a call by the President, Count Sclopis. All the Arbitrators were present.

Lord Tenterden and Mr. J. C. Bancroft Davis attended the Conference as Agents of Her Britannic Majesty and the United States respectively.

Count Sclopis, as President of the Tribunal, stated that he had received from Mr. Bancroft Davis the information that he was prepared to communicate to the Tribunal the action authorized by his Government respecting the declaration made by the Arbitrators at the last Conference.

Count Sclopis added that, being desirous of advancing the work of the Tribunal, he had therefore convoked the Conference this day instead of Wednesday, the day to which the adjournment had been made.

Mr. Bancroft Davis stated as follows:

"The declaration made by the Tribunal, individually and collectively, respecting the claims presented by the United States for the award of the Tribunal for: 1st, "The losses in the transfer of the American commercial marine to the British flag;" 2ndly, "The enhanced payment of insurance;" and 3rdly, "The prolongation of the war and the addition of a large sum to the cost of the war, and the suppression of the rebellion:" is accepted by the President of the United States as determinative of their judgment upon the important question of public law involved.

"The Agent of the United States is authorized to say that, consequently, the abovementioned claims will not be further insisted upon before the Tri-

bunal by the United States, and may be excluded from all consideration in any award that may be made."

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Lord Tenterden then said: "I will inform my Government of the declaration made by the Arbitrators on the 19th instant and of the statement now made by the Agent of the United States, and request their instructions."

The Conference was then adjourned to Thursday, the 27th instant, at 11 o'clock in the morning.

Frederic Sclopis.
Alex. Favrot, Secretary.

Tenterden.
J. C. Bancroft Davis.

Nr. 5031.

GROSSBRITANNIEN und **VEREINIGTE STAATEN** von **AMERIKA**. — Protocol Nr. VII. — Record of the Proceedings of the Tribunal of Arbitration at the Seventh Conference, held at Geneva, in Switzerland, on the 27th day of June, 1872.

Nr. 5031. Grossbritannien u. Ver. Staaten. 27. Juni 1872.

The Conference was held pursuant to adjournment.

All the Arbitrators were present.

Lord Tenterden and Mr. J. C. Bancroft Davis attended the Conference as Agents of Her Britannic Majesty and the United States respectively.

The Protocol of the last Conference was read and approved and was signed by the President and Secretary of the Tribunal and the Agents of the two Governments.

Count Sclopis, as President of the Tribunal, inquired whether Lord Tenterden had received the instructions from his Government for which he had said that he would apply at the last Conference.

Lord Tenterden then read the following statement: —

"The Undersigned, Agent of Her Britannic Majesty, is authorized by Her Majesty's Government to state that Her Majesty's Government find in the communication on the part of the Arbitrators, recorded in the Protocol of their proceedings of the 19th instant, nothing to which they cannot assent, consistently with the view of the interpretation and effect of the Treaty of Washington hitherto maintained by them; and being informed of the statement made on the 25th instant by the Agent of the United States, that the several claims particularly mentioned in that statement will not be further insisted upon before the Tribunal by the United States, and may be excluded from all consideration in any award that may be made; and assuming that the Arbitrators will upon

Nr. 5031. Gross-britannien u. Ver. Staaten. 27. Juni 1872.

such statement, think fit now to declare that the said several claims are, and from henceforth will be, wholly excluded from their consideration, and will embody such declaration in their Protocol of this day's proceedings; they have instructed the Undersigned, upon this being done, to request leave to withdraw the application made by him to the Tribunal on the 15th instant for such an adjournment as might enable a Supplementary Convention to be concluded and ratified between the High Contracting Parties; and to request leave to deliver the printed Argument, now in the hands of the Undersigned, which has been prepared on the part of Her Britannic Majesty's Government under the Vth Article of the Treaty with reference to the other claims, to the consideration of which by the Tribunal no exception has been taken on the part of Her Majesty's Government.

(Signed) "Tenterden."

Mr. Bancroft Davis said that he made no objection to the granting of the request made by Lord Tenterden to be permitted to withdraw his application for an adjournment, and to file the Argument of Her Britannic Majesty's Government.

Count Sclopis, on behalf of all the Arbitrators, then declared that the said several claims for indirect losses mentioned in the statement made by the Agent of the United States on the 25th instant and referred to in the statement just made by the Agent of Her Britannic Majesty, are, and from henceforth will be, wholly excluded from the consideration of the Tribunal; and directed the Secretary to embody this declaration in the Protocol of this day's proceedings.

He at the same time informed Lord Tenterden that the Tribunal assented to his request for leave to withdraw his application for a prolonged adjournment, and also to his request for leave to deliver the printed Argument which had been prepared on the part of Her Britannic Majesty's Government.

Lord Tenterden then presented copies of the Argument in duplicate to each of the Arbitrators, and to the Agent of the United States.

Count Sclopis stated that the Tribunal no longer desired the proceedings to be considered confidential so far as publication of them by the British and United States' Governments is concerned.

He then proceeded to read an adress as follows:

"Messieurs — Au moment où le noeud qui menaçait d'entraver pour longtemps encore l'exécution du Traité de Washington vient d'être si heureusement tranché, à l'heure où nos travaux vont prendre un cours libre et régulier, permettez-moi de vous dire, Messieurs et très-honorés collègues, combien j'apprécie l'honneur de siéger avec vous dans ce Tribunal d'Arbitrage, sur lequel sont fixés aujourd'hui les regards du monde civilisé. ‖ Laissez-moi ensuite vous exprimer tout ce que j'éprouve de reconnaissance pour la marque flatteuse de confiance qu'il vous a plu de m'accorder en m'appelant à occuper

ce fauteuil. || Je comprends parfaitement tout le prix de cette distinction si peu méritée; mais je comprends mieux encore le besoin que j'aurai d'être soutenu par le concours de vos lumières, et par l'appui de votre indulgence dans l'exercice des fonctions que vous m'avez confiées. Ce sera à vous que je les devrai, si je ne vais pas paraître trop au-dessous de ma tâche. || La réunion de ce Tribunal d'Arbitrage signale, à elle seule, une nouvelle direction imprimée aux idées qui gouvernent la politique des nations les plus avancées sur la voie de la civilisation. || Nous sommes arrivés à une époque où, dans les sphères les plus élevées de la politique, l'esprit de modération et le sentiment d'équité commencent partout à prévaloir sur les tendances des vieilles routines d'un arbitraire insolent ou d'une indifférence coupable. Diminuer les occasions de faire la guerre, atténuer les malheurs qu'elle traîne à la suite, placer les intérêts de l'humanité au-dessus de ceux de la politique, voilà l'oeuvre vers laquelle se dirigent toutes les grandes intelligences, tous les coeurs haut placés. Aussi avec quel bonheur n'a-t-on pas salué le voeu si noblement exprimé par le Congrès de Paris en 1856, que les Etats entre lesquels s'élèverait un dissentiment sérieux, avant d'en appeler aux armes, eussent recours, en tant que les circonstances l'admettraient, aux bons offices des Puissances amies! Que de bons effets n'avait-on pas à attendre de la déclaration de ce même Congrès concernant l'abolition de la course, et le respect de la propriété privée? Enfin nous ne saurions oublier ici cette Convention de Genève, qui parvint à placer sous la protection spéciale du droit des gens des élans de la charité sur les champs de bataille. || On a bien dû regretter que les vues si droites et si sages du Congrès de Paris n'aient pas été promptement secondées par les événements. De cruels démentis ont été donnés aux aspirations des âmes d'élite[1]); mais l'autorité morale des principes proclamés à cette époque ne s'est point affaiblie. || Grâce à l'initiative des hommes d'Etat qui président aux destinées de l'Amérique et de l'Angleterre, cette idée généreuse commence à porter ses fruits. || Le grand essai de l'application des règles austères et calmes du droit aux questions ardentes de la politique va se faire. L'histoire contemporaine racontera à la postérité que, même dans la chaleur des plus vives récriminations, on a toujours songé des deux côtés de l'Atlantique à tenir ouvertes les voix d'un accommodement acceptable par les amis de la paix et du progrès. || A travers des négociations nécessairement longues, sous l'action des courants variables de l'opinion publique, inévitables chez les

[1]) "In the performance of a melancholy duty," dit Sir Robert Phillimore dans la Préface à la deuxième édition des "Commentaries upon International Law, 1871", "I am obliged to close this chronicle of events by the admission that the suggestion contained in the last Protocol to the Treaty of Paris, 1856, has remained a dead letter, except, perhaps, in the case of Luxemburg. Neither of the belligerents, in the present horrible war, would listen to the suggestion of such an arbitration."

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Gouvernements à base populaire, le but de ces magnanimes efforts ne fut jamais perdu de vue. Personne, certes, ne pouvait en contester l'utilité; mais d'en venir au point d'accepter purement et simplement le système de l'arbitrage, de renoncer à ce privilège, si cher aux ambitions vulgaires, de se faire justice de sa main; voilà ce qui exigeait une rare fermeté de conviction, un dévouement à toute épreuve aux intérêts de l'humanité. Aussi le premier ministre d'Angleterre a-t-il eu raison de parler du Traité de Washington dans les termes qui caractérisent à la fois la grandeur et la difficulté de l'entreprise. 'Il se peut,' disait-il, 'que se soit une espérance trop éclatante pour être réalisée dans ce monde de misères où nous vivons; l'expérience du moins est digne de l'effort. On recherche, s'il est possible, de soumettre ces conflits d'opinion entre deux nations au jugement d'un tribunal de raison au lieu de l'arbitrage sanglant des armes. L'histoire se souviendra à l'égard des Etats Unis et du Royaume Uni, que, ayant à vider de sérieux conflits, et se sentant peu disposés de part et d'autre à céder le terrain, ils se sont néanmoins appliqués à assurer la paix, et non-seulement à régler leur propres conflits, mais aussi à donner un exemple qui sera fécond en bienfaits pour les autres nations.[1]' || On a dit, que le triomphe d'une idée utile n'est jamais qu'une question de date. Félicitons-nous, Messieurs, d'assister à la réalisation d'un dessein qui doit être fécond des meilleurs résultats; espérons qu'il tiendra dans l'avenir tout ce qu'il promet aujourd'hui. || Nous avons entendu ce cri terrible 'la force prime le droit;' c'est un défi porté à la civilisation. Nous voyons maintenant la politique s'adresser à la justice, pour ne pas abuser de la force; c'est un hommage que la civilisation doit recevoir avec bonheur. || Ne nous plaignons pas trop si les questions que nos sommes appelés à résoudre nous arrivent à la suite d'agitations prolongées. Reconnaissons plutôt l'importance des documents qui nous ont été fournis et des raisonnements dont ils ont été accompagnés. || Les longues investigations préparent les meilleurs solutions. On navigue plus sûrement sur les rivières qui ont été le mieux sondées. || Le droit des gens a été trop souvent regardé comme un sol mobile sur lequel, au moment où l'on croit avancer, le pied glisse en arrière. Serait-ce un espoir indiscret que celui de parvenir par nos efforts à rendre ce sol un peu mieux raffermi? || L'objet de nos délibérations demande des études aussi variées que sérieuses. Nous aurons à l'examiner à des points de vue différents. Ce sera tantôt avec la large perception de l'homme d'Etat; tantôt avec l'oeil scrutateur d'un Président aux Assises; toujours avec un profond sentiment d'équité et avec une impartialité absolue. || Nous nous promettons beaucoup de l'aide empressée des Agents des deux Puissances qui ont eu recours à ce Tribunal; leur haute intelligence et leur zèle éclairé nous sont également connus. || Enfin le Tribunal se confie dans

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[1]) Discours prononcé par M. Gladstone au banquet d'installation du nouveau Lord Maire, le 9 novembre, 1871.

l'assistance des Conseils des Hautes Parties présents à la barre, de ces jurisconsultes éminents dont le nom vaut un éloge. Nous nous attendons qu'ils coopéreront franchement avec nous dans ce qui doit être non-seulement un acte de bonne justice, mais encore un travail de grande pacification. || Puissions-nous répondre complètement aux louables intentions des Puissances qui nous ont honorés de leur choix; puissions-nous remplir, avec l'aide de Dieu, une mission qui mette fin à de longs et pénibles différends; qui, en réglant de graves intérêts apaise de douloureuses émotions, et qui ne soit pas sans quelque heureuse influence sur le maintien de la paix du monde et les progrès de la civilisation. || Vos voeux, très-honorés collègues, s'accorderont sans doute avec les miens pour que l'essai que l'on va faire serve à écarter dans l'avenir les occasions de luttes sanglantes et à raffermir l'empire de la raison. Dans cette douce prévision, j'aime à rappeler ces paroles du héros de l'Amérique, de Georges Washington: 'S'il y a une vérité fortement établie, c'est qu'il y a ici-bas un lieu indissoluble entre les pures maximes d'une politique honnête et magnanime et les solides récompenses de la prospérité et du bonheur public'." [1])

Lord Tenterden then stated that Sir Roundell Palmer, Her Britannic Majesty's Counsel, had prepared, for the consideration of the Tribunal, a statement of certain points of importance, as to which he desires to have an opportunity of submitting to the Tribunal further arguments, in answer to those contained in the Argument of the United States delivered on the 15th instant; and that Sir Roundell Palmer would now, with the permission of the Tribunal, read such statement, of which, with a translation which would be prepared without delay, copies will be delivered to the several Arbitrators and to the Agent of the United States in the course of the day; and, as the preparation of any further arguments on those or any other points will necessarily require some time to be allowed, he begged respectfully to suggest that the Counsel on both sides should be informed of the time which the Tribunal would be willing to allow, before requiring their further attendance for the purpose of any arguments. If the interval so granted can be extended to the 1st of August next, it is believed that this will meet the views of the Counsel and Agents of both Parties, and may probably enable the Counsel, when again before the Tribunal, to discharge their duty in a shorter time than might otherwise be requisite.

Sir Roundell Palmer then read a statement.

Mr. Bancroft Davis then said that, upon being furnished with a copy of the paper now presented on the part of Her Britannic Majesty's Counsel, he

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[1]) Discours prononcé le 30 avril, 1789, dans la séance du Sénat Américain, lors de la Proclamation de Washington à la Présidence et de John Adams à la Vice Présidence des Etats Unis.

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would lay the same before the Counsel of the United States, and would present their views to the Tribunal after such consultation.

Count Sclopis then stated that the Tribunal had, at the request of the Agent of Her Britannic Majesty's, granted permission to Sir Roundell Palmer to read the statement requesting the Tribunal to authorize him to furnish the Arbitrators with further arguments on the points therein specified, and that, with reference to this request, Mr. Adams, as one of the Arbitrators, had suggested a preliminary question, viz., whether, under the terms of Article V of the Treaty of Washington, it is competent for the Agents or Counsel to make requests of this nature, and that the Tribunal, after discussion, and having in view the precise terms of the Treaty, had decided that the Arbitrators alone have the right, if they desire further elucidation with regard to any point, to require a written or printed statement or argument, or oral argument by Counsel upon it, under the terms of the said Article.

The Conference was then adjourned until Friday, the 28th instant, at 11 o'clock, a. m.

Frederic Sclopis.
Alex. Favrot, Secretary.

Tenterden.
J. C. Bancroft Davis.

Nr. 5032.

GROSSBRITANNIEN und VEREINIGTE STAATEN von AMERIKA. — Protocol Nr. XXXII. — Record of the Proceedings of the Tribunal of Arbitration at the Thirty-second Conference, held at Geneva, in Switzerland, on the 14th of September, 1872.[1])

Nr. 5032. Gross-britannien u. Ver. Staaten. 14. Sept. 1872.

The Conference was held with open doors, pursuant to adjournment. All the Arbitrators and the Agents of the two Governments were present.

The Protocol of the last Conference was read and approved, and was signed by the President and Secretary of the Tribunal.

The President then presented the Decision of Tribunal on the question of the Alabama Claims, and directed the Secretary to read it; which was done, and the Decision was signed by Mr. Charles Francis Adams, Count Frederic Sclopis, M. Jacques Staempfli, and Viscount d'Itajubá, Arbitrators, in the presence of the Agents of the two Governments.

A copy of the Decision, thus signed, was delivered to each of the Agents of the two Governments respectively, and the Tribunal decided to

[1]) Die Protocolle 8—31 enthalten die eigentlichen Berathungen der Schiedsrichter und die Plaidoyers der beiderseitigen Anwälte. A. d. Red.

have a third copy placed upon record; they further decided that the decision should be printed and annexed to the present Protocol.

Nr. 5032. Gross-britannien u. Ver. Staaten. 14. Sept. 1872.

Sir Alexander Cockburn, as one of the Arbitrators, having declined to assent to the Decision, stated the grounds of his own decision, which the Tribunal ordered to be recorded as an Annex to the present Protocol.

The Tribunal resolved to request the Council of State at Geneva to receive the archives of the Tribunal and to place them among its own archives.

The President, Count Sclopis, then directed the Secretary to make up the record of the proceedings of the Tribunal at this XXXIInd and last Conference, as far as completed; which was done, and the record having been read and approved, was signed by the President and Secretary of the Tribunal and the Agents of the two Governments.

Thereupon the President declared the labours of the Arbitrators to be finished and the Tribunal to be dissolved.

Frederic Sclopis.
Alex. Favrot, Secretary.

Tenterden.
J. C. Bancroft Davis.

Nr. 5033.

GROSSBRITANNIEN und VEREINIGTE STAATEN von AMERIKA. — Decision and Award made by the Tribunal of Arbitration constituted by virtue of the Ist Article of the Treaty concluded at Washington the 8th of May, 1871, between Her Majesty the Queen of the United Kingdom of Great Britain and the United States of America.

Her Britannic Majesty and the United States of America having agreed by Article I of the Treaty concluded and signed at Washington the 8th of May, 1871, to refer all the claims "generically known as the Alabama claims" to a Tribunal of Arbitration to be composed of five Arbitrators named:

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One by Her Britannic Majesty,
One by the President of the United States,
One by His Majesty the King of Italy,
One by the President of the Swiss Confederation,
One by His Majesty the Emperor of Brazil;

And

Her Britannic Majesty, the President of the United States, His Majesty the King of Italy, the President of the Swiss Confederation, and His

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Majesty the Emperor of Brazil, having respectively named their Arbitrators, to wit:

Her Britannic Majesty, Sir Alexander James Edmund Cockburn, Baronet, a Member of Her Majesty's Privy Council, Lord Chief Justice of England;

The President of the United States, Charles Francis Adams, Esquire;

His Majesty the King of Italy, His Excellency Count Frederic Sclopis, of Salerano, a Knight of the Order of the Annunciata, Minister of State, Senator of the Kingdom of Italy;

The President of the Swiss Confederation, M. Jacques Staempfli;

His Majesty the Emperor of Brazil, His Excellency Marcos Antonio d'Araujo, Viscount d'Itajubá, a Grandee of the Empire of Brazil, Member of the Council of His Majesty the Emperor of Brazil, and His Envoy Extraordinary and Minister Plenipotentiary in France.

And the five Arbitrators above named having assembled at Geneva (in Switzerland) in one of the Chambers of the Hôtel de Ville on the 15th of December, 1871, in conformity with the terms of the IInd Article of the Treaty of Washington, of the 8th of May of that year, and having proceeded to the inspection and verification of their respective powers, which were found duly authenticated, the Tribunal of Arbitration was declared duly organized.

The Agents named by each of the High Contracting Parties, by virtue of the same Article II, to wit: —

For Her Britannic Majesty, Charles Stuart Aubrey, Lord Tenterden, a Peer of the United Kingdom, Companion of the Most Honourable Order of the Bath, Assistant Under-Secretary of State for Foreign Affairs;

And for the United States of America, John C. Bancroft Davis, Esquire;

Whose powers were found likewise duly authenticated, then delivered to each of the Arbitrators the printed Case prepared by each of the two Parties, accompanied by the documents, the official correspondence, and other evidence on which each relied, in conformity with the terms of the IIIrd Article of the said Treaty.

In virtue of the decision made by the Tribunal at its first session, the Counter-Case and additional documents, correspondence, and evidence, referred to in Article IV of the said Treaty were delivered by the respective Agents of the two Parties to the Secretary of the Tribunal on the 15th of April, 1872, at the Chamber of Conference, at the Hôtel de Ville of Geneva.

The Tribunal, in accordance with the vote of adjournment passed at their second session, held on the 16th December, 1871, reassembled at

Geneva on the 15th of June, 1872; and the Agent of each of the Parties duly delivered to each of the Arbitrators and to the Agent of the other Party the printed Argument referred to in Article IV of the said Treaty.

The Tribunal having since fully taken into their consideration the Treaty and also the Cases, Counter-Cases, documents, evidence, and Arguments, and likewise all other communications made to them by the two Parties during the progress of their sittings, and having impartially and carefully examined the same,

Has arrived at the decision embodied in the present Award:

Whereas, having regard to the VIth and VIIth Articles of the said Treaty, the Arbitrators are bound under the terms of the said VIth Article, "in deciding the matters submitted to them, to be governed by the three Rules therein specified and by such principles of International Law, not inconsistent therewith, as the Arbitrators shall determine to have been applicable to the case;"

And whereas the "due diligence" referred to in the first and third of the said Rules ought to be exercised by neutral Governments in exact proportion to the risks to which either of the belligerents may be exposed, from a failure to fulfil the obligations of neutrality on their part;

And whereas the circumstances out of which the facts constituting the subject-matter of the present controversy arose, were of a nature to call for the exercise on the part of Her Britannic Majesty's Government of all possible sollicitude for the observance of the rights and duties involved in the Proclamation of Neutrality issued by Her Majesty on the 13th day of May, 1861;

And whereas the effects of a violation of neutrality committed by means of the construction, equipment, and armament of a vessel are not done away with by any commission which the Government of the belligerent Power, benefited by the violation of neutrality, may afterwards have granted to that vessel: and the ultimate step, by which the offence is completed, cannot be admissible as a ground for the absolution of the offender, nor can the consummation of his fraud become the means of establishing his innocence;

And whereas the privilege of exterritoriality accorded to vessels of war has been admitted into the law of nations, not as an absolute right, but solely as a proceeding founded on the principle of courtesy and mutual deference between different nations, and therefore can never be appealed to for the protection of acts done in violation of neutrality;

And whereas the absence of a previous notice cannot be regarded as a failure in any consideration required by the law of nations, in those cases in which a vessel carries with it its own condemnation;

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And whereas, in order to impart to any supplies of coal a character inconsistent with the second Rule, prohibiting the use of neutral ports or waters, as a base of naval operations for a belligerent, it is necessary that the said supplies should be connected with special circumstances of time, of persons, or of place, which may combine to give them such character;

And whereas, with respect to the vessel called the Alabama, it clearly results from all the facts relative to the construction of the ship at first designated by the Number 290 in the port of Liverpool, and its equipment and armament in the vicinity of Terceira through the agency of the vessels called the Agrippina and the Bahama, dispatched from Great Britain to that end, that the British Government failed to use due diligence in the performance of its neutral obligations; and especially that it omitted, notwithstanding the warning and official representations made by the diplomatic agents of the United States during the construction of the said Number 290, to take in due time any effective measures of prevention, and that those orders which it did give at last, for the detention of the vessel, were issued so late that their execution was not practicable;

And whereas, after the escape of the vessel, the measures taken for its pursuit and arrest were so imperfect as to lead to no result, and therefore cannot be considered sufficient to release Great Britain from the responsibility already incurred;

And whereas, in despite of the violations of the neutrality of Great Britain committed by the "290", this same vessel, later known as the Confederate cruiser Alabama, was on several occasions freely admitted into the ports of Colonies of Great Britain, instead of being proceeded against as it ought to have been in any and every port within British jurisdiction in which it might have been found;

And whereas the Government of Her Britannic Majesty cannot justify itself for a failure in due diligence on the plea of the insufficiency of the legal means of action which it possessed:

Four of the Arbitrators for the reasons above assigned, and the fifth for reasons separately assigned by him,

Are of opinion —

That Great Britain has in this case failed, by omission, to fulfil the duties prescribed in the first and the third of the Rules established by the VIth Article of the Treaty of Washington.

And whereas, with respect to the vessel called the Florida, it results from all the facts relative to the construction of the Oreto in the port of Liverpool, and to its issue therefrom, which facts failed to induce the Authorities in Great Britain to resort to measures adequate to prevent the violation

of the neutrality of that nation, notwithstanding the warnings and repeated representations of the Agents of the United States, that Her Majesty's Government has failed to use due diligence to fulfil the duties of neutrality;

And whereas it likewise results from all the facts relative to the stay of the Oreto at Nassau, to her issue from that port, to her enlistment of men, to her supplies, and to her armament, with the co-operation of the British vessel Prince Alfred, at Green Cay, that there was negligence on the part of the British Colonial Authorities;

And whereas, notwithstanding the violation of the neutrality of Great Britain committed by the Oreto, this same vessel, later known as the Confederate cruiser Florida, was nevertheless on several occasions freely admitted into the ports of British Colonies;

And whereas the judicial acquittal of the Oreto at Nassau cannot relieve Great Britain from the responsibility incurred by her under the principles of international law; nor can the fact of the entry of the Florida into the Confederate port of Mobile, and of its stay there during four months, extinguish the responsibility previously to that time incurred by Great Britain:

For these reasons,

The Tribunal, by a majority of four voices to one, is of opinion —

That Great Britain has in this case failed, by omission, to fulfil the duties prescribed in the first, in the second, and in the third of the Rules established by Article VI of the Treaty of Washington.

And whereas, with respect to the vessel called the Shenandoah, it results from all the facts relative to the departure from London of the merchant-vessel the Sea King, and to the transformation of that ship into a Confederate cruiser under the name of the Shenandoah, near the Island of Madeira, that the Government of Her Britannic Majesty is not chargeable with any failure, down to that date, in the use of due diligence to fulfil the duties of neutrality;

But whereas it results from all the facts connected with the stay of the Shenandoah at Melbourne, and especially with the augmentation which the British Government itself admits to have been clandestinely effected of her force, by the enlistment of men within that port, that there was negligence on the part of the authorities at that place:

For these reasons,

The Tribunal is unanimously of opinion —

That Great Britain has not failed, by any act or omission, to fulfil any of the duties prescribed by the three Rules of Article VI of the Treaty of

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Washington, or by the principles of international law not inconsistent therewith, in respect to the vessel called the Shenandoah, during the period of time anterior to her entry into the port of Melbourne;

And, by a majority of three to two voices, the Tribunal decides that Great Britain has failed, by omission, to fulfil the duties prescribed by the second and third of the Rules aforesaid, in the case of this same vessel, from and after her entry into Hobson's Bay, and is therefore responsible for all acts committed by that vessel after her departure from Melbourne, on the 18th day of February, 1865.

And so far as relates to the vessels called —

The Tuscaloosa
(Tender to the Alabama),
The Clarence,
The Tacony, and
The Archer
(Tenders to the Florida),

The Tribunal is unanimously of opinion —

That such tenders or auxiliary vessels being properly regarded as accessories must necessarily follow the lot of their principals, and be submitted to the same decision which applies to them respectively.

And so far as relates to the vessel called Retribution,

The Tribunal, by a majority of three to two voices, is of opinion —

That Great Britain has not failed by any act or omission to fulfil any of the duties prescribed by the three Rules of Article VI in the Treaty of Washington, or by the principles of international law not inconsistent therewith.

And so far as relates to the vessels called —

The Georgia,
The Sumter,
The Nashville,
The Tallahassee, and
The Chickamauga, respectively,

The Tribunal is unanimously of opinion —

That Great Britain has not failed, by any act or omission, to fulfil any of the duties prescribed by the three Rules of Article VI in the Treaty of Washington, or by the principles of international law not inconsistent therewith.

And so far as relates to the vessels called —

The Sallie,
The Jefferson Davis,
The Music,
The Boston, and
The V. H. Joy, respectively,

The Tribunal is unanimously of opinion —

That they ought to be excluded from consideration for want of evidence.

And whereas, so far as relates to the particulars of the indemnity claimed by the United States, the costs of pursuit of the Confederate cruisers are not, in the judgment of the Tribunal, properly distinguishable from the general expenses of the war carried on by the United States:

The Tribunal is, therefore, of opinion, by a majority of three to two voices —

That there is no ground for awarding to the United States any sum by way of indemnity under this head.

And whereas prospective earnings cannot properly be made the subject of compensation, inasmuch as they depend in their nature upon future and uncertain contingencies:

The Tribunal is unanimously of opinion —

That there is no ground for awarding to the United States any sum by way of indemnity under this head.

And whereas, in order to arrive at an equitable compensation for the damages which have been sustained, it is necessary to set aside all double claims for the same losses, and all claims for "gross freights", so far as they exceed "nett freights";

And whereas it is just and reasonable to allow interest at a reasonable rate;

And whereas, in accordance with the spirit and letter of the Treaty of Washington, it is preferable to adopt the form of adjudication of a sum in gross, rather than to refer the subject of compensation for further discussion and deliberation to a Board of Assessors, as provided by Article X of the said Treaty:

The Tribunal, making use of the authority conferred upon it by Article VII of the said Treaty, by majority of four voices to one, awards to the United States a sum of 15,500,000 dollars in gold as the indemnity to be paid by Great Britain to the United States for the satisfaction of all the

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claims referred to the consideration of the Tribunal, conformably to the provisions contained in Article VII of the aforesaid Treaty.

And, in accordance with the terms of Article XI of the said Treaty, the Tribunal declares that "all the claims referred to in the Treaty as submitted to the Tribunal are hereby fully, perfectly and finally settled."

Furthermore it declares, that "each and every one of the said claims, whether the same may or may not have been presented to the notice of, or made, preferred, or laid before the Tribunal, shall henceforth be considered and treated as finally settled, barred, and inadmissible."

In testimony whereof this present Decision and Award has been made in duplicate, and signed by the Arbitrators who have given their assent thereto, the whole being in exact conformity with the provisions of Article VII of the said Treaty of Washington.

Made and concluded at the Hôtel de Ville of Geneva, in Switzerland, the 14th day of the month of September, in the year of our Lord 1872.

C. F. Adams.
Frederic Sclopis.
Staempfli.
Vicomte d'Itajubá.

Reasons of Sir Alexander Cockburn for dissenting from the Award of the Tribunal of Arbitration.[1])

[Die Florida.]

A grave question (here) presents itself whether Great Britain, even if open to the imputation of want of due diligence in respect of the original equipment of the Oreto, or of her arming at Green Cay, can properly be held responsible for the acts of this ship subsequently to her entry into Mobile. || It is all important to bear in mind that the original equipment of this vessel, though an offence against the municipal law of Great Britain, was not, there being up to the time she arrived at the Bahamas no present intention of war, an offence against international law. All the power which

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[1]) Dieses Separatvotum des englischen Schiedsrichters giebt eine sehr ausführliche und klare Darlegung aller in Betracht kommenden rechtlichen und faktischen Gesichtspunkte und enthält eine Fülle von völkerrechtlicher Belesenheit und Gelehrsamkeit. Wir müssen es uns leider versagen, das Aktenstück auch nur auszugsweise hier mitzutheilen und müssen uns darauf beschränken, diejenigen Stellen desselben wiederzugeben, welche speziell die abweichenden Ansichten Sir A. Cockburn's in Betreff der Florida, der Shenandoah und der Gesammtsumme betreffen. A. d. Red.

the Government could exercise against her, in respect of any offence against the municipal law, was such as was derived from that law, that is to say, from the Foreign Enlistment Act. Now, all that the latter empowered the Government to do was to seize the vessel and to bring her before a competent Court for condemnation. If, when such a proceeding has been adopted, it results in the acquittal and release of the vessel, the matter becomes *res judicata*, the original vice becomes purged, and no further proceeding *in rem* can be had. A ship cannot be seized, and brought into Court again and again, when once it has been decided by a competent Court that she was not liable to seizure and condemnation at all. After the Oreto had been thus acquitted, all power of further seizure, as for an infraction of the Foreign Enlistment Act in her original equipment, was at an end. I grant that the right of a belligerent to redress for a breach of neutrality against international law would not be affected by a judicial proceeding under the municipal law; but there having been here, according to my view, no more than a breach of the municipal law, all that the belligerent could possibly exact was that the municipal law should be put in force by a proceeding against the vessel. When under such a proceeding the vessel had been acquitted, the matter was at an end. || It will be said that a second offence was committed in British jurisdiction by the arming of this vessel at Green Cay; and this may be so; but here again we have in like manner no breach of neutrality according to international law if, owing to the deficiency of the crew, there was no present intention of applying the ship to the purpose of war.

. . . .

|| Having shown, as I think, abundant grounds for saying that as to what passed at Green Cay, no possible imputation of want of due diligence can attach, it seems to me that it would be carrying the doctrine of neutral responsibility to an unheard-of and most unreasonable length to say that, after a lapse of five months, during which no vessel of the United States was captured by the Florida, and after this vessel had been four months in a Confederate port, and had there shipped a new crew, Great Britain is to be held liable for damage afterwards done by her. || I agree with Sir Roundell Palmer in thinking that, with her arrival at Mobile, if not with her departure from the Bahamas, the illegal voyage upon which any liability attached came to an end, and with it all responsibility which can reasonably be fastened on the Government of Great Britain.

But it is said that the Florida, having again come into a British port, and being known to be engaged in hostile operations against the United States, ought to have been detained, it being obligatory on the British Government to stop such a vessel, by reason of the admission in the second branch of the first Rule, viz., that "a neutral nation is bound to use due diligence to prevent the departure from its jurisdiction of any vessel intended to cruise or carry on war" under the circumstances referred to in the first

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branch; "such vessel having been specially adapted, in whole or in part, within its jurisdiction, to warlike use." || The question is one of considerable importance, as it may affect not only the Florida, but also the Georgia and the Shenandoah, vessels as to the equipping of which it will be impossible to fix the British Government with want of due diligence. || I cannot understand how such a contention can have been raised. It appears to me to rest on a thorough perversion of the obvious meaning of the Rule. It is impossible to read the first Rule without seeing that it is intended to apply to two branches of one entire transaction, which consists, first, in allowing the vessel to be equipped, next in allowing her to depart; the second branch of the Rule being intended to meet a case in which a vessel may have been equipped in such a manner as to elude the diligence of the Authorities, but where there may be an opportunity, on her character being discovered, to arrest her before she has quitted neutral waters. || The second branch of the Rule is obviously intended to apply to the first departure of a vessel — that is to say, its departure from a neutral port before passing into the hands of a belligerent Government — and to that alone. || It is absurd to suppose that, if it had been intended that Great Britain should be held liable for not having seized these vessels on their re-entering her ports, this would not have been expressly stated; especially when it is remembered that this might have been virtually to admit liability in respect of all these vessels, if shown to have been specially adapted for war within British territory; for every one of them returned to a British port at an early period of its career. It is plain that it never could have entered into the mind of the British Ministry that the Rule would be treated as applicable to anything beyond the first departure of the vessel. || The moral bearing of the question has been admirably pointed out in Sir R. Palmer's argument: —

"It would have become the plain duty of any neutral State which had entered into such an engagement to give notice of it beforehand to all belligerent Powers, before it could be put in force to their prejudice. It is impossible that an act, which would be a breach of public faith and of international law towards one belligerent, could be held to constitute any part of the '*diligence due*' by a neutral to the other belligerent. The Rule says nothing of any obligation to *exclude* this class of vessels, when once commissioned as public ships of war, from entrance into neutral ports upon the ordinary footing. If they were so excluded by proper notice, they would not enter; and the Rule (in that case) could never operate to prevent their departure. If they were so excluded by proper notice, they would not enter; and the Rule (in that case) could never operate to prevent their departure. If they were not so excluded, instead of being 'due diligence,' it would be a flagrant act of treachery and wrong to take advantage of their entrance, in order to effect their detention or capture. Can Her Majesty be supposed to have consented to be retrospectively judged as wanting in due diligence,

because, not having excluded these Confederate ships of war from her ports by any prohibition or notice, she did not break faith with them, and commit an outrage on every principle of justice and neutrality by their seizure? The Rules themselves had no existence at the time of the war; the Confederates knew, and could know, nothing of them; their retrospective application cannot make an act *ex post facto* 'due,' upon the footing of 'diligence,' to the one party in the war, which, if it had been actually done, would have been a wholly unjustifiable outrage against the other."

And this being so, it may safely be asserted that the United States' Government must have framed the Rules with a like mind; for it would be to give them credit for sharp practice indeed, if, while the British Government agreed to the Rule, on the supposition that its application was to be limited to the first departure of an offending vessel, the United States should be at liberty to insist on its application, *toties quoties*, to every subsequent departure. I will say no more than that the construction thus sought to be put on the second branch of the first Rule is quite preposterous.

But it is said, in the second place, that the equipment and sending out of an armed vessel from the port of a neutral being a violation of its territory and neutral rights, and therefore a hostile act, Great Britain had the right to seize these vessels on their again coming within her jurisdiction, and was bound to do so, to prevent them from continuing to make war on vessels of the United States. || The answer of the British Government is threefold: — || 1st. That it had not the rigth, according to international law, to seize these vessels, seeing that when they came again into British ports, they were admitted as the commissioned ships of war of a belligerent State. || 2ndly. That, independently of the foregoing ground, the British Government could not as a neutral Government, seize a ship of war of a belligerent State for that which was not a violation of neutrality but only of its own municipal law. || 3rdly. That even if it had the right, it was under no obligation to exercise it.

The first of these grounds depends on the effect of the commissions which these vessels had in the meantime received from the Government of the Confederate States as ships of war. || Now, it must be taken as an unquestionable fact that these ships were built, or equipped, for the *de facto* Government of the Confederate States, and were employed by it as regular ships of war, under the command of officers regularly commissioned. Hereupon two questions present themselves. Were these commissions valid? If so, what was their effect as to affording immunity to a vessel, thus commissioned, from seizure by the Government of Great Britain? . . . .

No doubt the effect to be given to the commission of a belligerent Government must depend on its power to act as a Government. And I repeat what I have before endeavoured to make good: namely, that where an integral portion of a nation separates itself from the parent State, and establishes a *de facto* Government of its own, excluding the former Government from all

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power and control, and thereupon a civil war ensues, a neutral nation is fully justified in recognizing the Government *de facto* as a belligerent, though it has not as yet acknowledged it as a nation; and that from the time of the acknowledgment of its belligerent status, the Government *de facto* acquires, in relation to the neutral, all the rights which attach to the status of a belligerent of an established nationality. The practice of nations has been uniform on this point; all the maritime nations concurred in according to the Confederate Government the status and rights of a belligerent. The commissions of the Confederate States, must therefore be taken to have had the same force and efficacy as the commissions of any recognized Government would have had. || It has, indeed, been contended that, in the particular instance of the vessels belonging to the Confederate States, the commissions of the Government *de facto* ought not to have been respected. After having listened, with the utmost attention, to the argument of Mr. Evarts, I protest I am at a loss to know why. Setting aside all the idle language that has been written and spoken about "piracy" — as though the ships of eleven great provinces, having an organized Government, and carrying on one of the greatest civil wars recorded in history, could be called pirates — the argument comes to this: that a country, the independent nationality of which has not been acknowledged, and which has not been admitted into the fraternity of nations, has no rights of sovereignty, and consequently cannot by its commission exclude the right of the local sovereign to seize one of its vessels of war if any infraction of the municipal law has been committed in respect of it. But what is this, practically, but to deprive the recognition of belligerency of all the effects it was intended to have? It is admitted among nations that such a recognition may be made by a neutral State. Its purpose is to invest the *de facto* Government with the character of a belligerent Power, for the common benefit of both belligerent and neutral, without any recognition of independence or sovereignty. The recognition would plainly be idle if it did not carry with it one of the most important rights incidental to a belligerent Government, that of commissioning and employing vessels of war, and of having those vessels, when sailing under its flag, and armed with its commissions, invested with the privileges conceded to ships of war, and therefore exempted from the jurisdiction of any neutral country in whose waters they may be.

But it is alleged that, even assuming the Commissions to have been valid, these vessels ought nevertheless to have been seized. The argument, as I understand it, is in substance this: the equipping and sending forth of a vessel from neutral territory, for the purpose of being employed in the service of a belligerent, is a violation of the territorial rigths of the neutral; every violation of the territory of a neutral is a hostile act; every hostile act calls upon the neutral to vindicate its rights by force; therefore Great Britain ought to have seized these vessels. . . . .

|| But it is said that — independently of any violation of territory in the sense of international relations — because the vessel was equipped and armed in defiance, or in fraud, of the municipal law of Great Britain, it was incumbent on the British authorities to seize her when she next entered a British port. In this contention there appears to be — I say it with all possible respect — considerable confusion of ideas, and a losing sight of elementary principles. I agree with M. Staempfli that, these vessels having been ordered by agents of the Confederate Government, it is the same thing as though they had been ordered by that Government itself; and that there was, consequently, in respect of them, a violation of the municipal law of Great Britain by the Confederate Government itself. But it is a great mistake to suppose that a breach of the municipal law of a neutral country, though relating to neutrality, becomes a violation of the territorial rights of the neutral, because committed by a belligerent Power. The character of the offender does not change or effect the character or quality of the offence. Nothing short of a breach of neutrality, according to international law, can justify a resort to forcible measures on the part of the neutral as for a violation of his neutral rights. || Now, the equipment of the Florida in England for the service of the Confederates constituted no violation of neutrality by international law, the vessel not having been armed, or sent out for the present purpose of war. On her way to Nassau she would have been subject to seizure as contraband of war; but that is all. In like manner, though the arming of the vessel at the desert island of Green Cay may have been, strictly speaking, a violation of British law, yet, there being no present purpose of war, it was no violation of neutral territory within the rules of international law. It was, at the utmost, a breach of the law of Great Britain. And here the distinction should be kept in view to which I have already referred, and which seems to me to have altogether been lost sight of, namely, that a breach of the municipal law, though it may be of a law relating to neutrality, does not constitute a breach of neutrality as between nations. That which, if done by a subject, would simply amount to a breach of his own law, does not become a violation of neutrality, because done by a foreigner. Nor is it the more so because done by a belligerent Government, or the agent of such Government. Let such a Government send agents to purchase ships equipped and ready for war, not with any immediate purpose of using them as ships of war on leaving port, but that they may be conveyed to its own country, to be eventually used for war, if such an act is an offence by local law, it will still be an offence against the local law alone. How, then, can it be said that for a violation of municipal law alone a neutral can seize a vessel, in respect of which that law alone has been violated, when it has become the property of the Government of another State? No principle of the law of nations is more firmly settled or universally acknowledged than that an independent Sovereign or Government, —

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and, for this purpose, the Government of a State, as yet acknowledged only as a belligerent, must be taken to be an independent Government — is not amenable to the municipal law of another country. All rights, all obligations, all duties, all liabilities, as between Sovereign and Sovereign, State and State, Government and Government, depend wholly and solely either on express convention or on the principles and rules of the common law of nations. How, then, in the matter of an infraction of the municipal law only, could a neutral State have recourse, as against a belligerent Government, to the powers which that law gave it against its own subjects alone? || But, assuming even that a neutral State would be entitled to seize a vessel, though armed with a commission from a belligerent Power, by reason of some offence committed against its neutrality, as a reparation for a wrong done against itself, how can it possibly be asserted that it is under any obligation to do so? It may be said that a nation is bound to maintain its own sovereignty, to vindicate its honour, to maintain the inviolability, and, morally speaking, this may be true; but, I ask, what law is there which makes it obligatory on it to do this? A State, like an individual, may omit to insist on its rights, among others on its right of reparation for wrong done to it — *unusquisque potest renuntiare juri pro se constituto.* I cannot admit the argument that it is less free to do so, because it is to the interest of a belligerent that it should resent a wrong by force, and so inflict damage on his adversary. To ask for apology or reparation is one thing; but to seize the ship of another State, is neither more nor less than a step towards war. It is an act which no powerful State would submit to; which would lead to reprisals, in all probability to war. It is, therefore, one which no powerful State should have recourse to as against a weak one. Again, the neutral State may be a weak one — the wrong-doing belligerent a powerful one. The neutral may have the strongest motives for remaining at peace. Is it to be said that, in spite of all such consideration, the neutral, who would not have recourse to forcible measures so far as his own interests are concerned, is nevertheless bound to do so, no matter what may be the consequences, because the other belligerent has a right to insist on it? Yet this is what I understand our honourable President to maintain. I cannot, for my part, concur in such a view. What would be said if a State, the neutrality of which is secured by international arrangements, such for instance as Belgium, were to find itself in such a position? Would it be bound to have recourse to force because a belligerent had had a vessel of war constructed in one of its ports without its knowledge? I cannot think so. I adopt the conclusion of M. Ortolan. The question whether a breach of its neutral rights shall be resented or not is matter for the neutral State to determine. "C'est à lui à juger s'il y a eu, ou s'il n'y a pas eu, véritablement atteinte portée à sa souveraineté; s'il doit à sa propre dignité et aux obligations d'impartialité qui lui impose sa qualité de neutre, de réclamer contre cette atteinte et de

demander que les conséquences en soient ennulées ou réparées; ou bien s'il veut garder le silence et n'élever aucune réclamation." || No doubt a neutral State may, and in some instances ought — as, for instance, in such a flagrant case as the capture of the Florida by the Wachusett in the port of Bahia — to insist on redress. If the Florida had not sunk in the meantime, Brazil would have had a right to insist on her being set at liberty. But what if the Florida had not fortunately sunk, and the United States had refused to release her on the demand of Brazil? Though the latter might, if so minded, have made reprisals, or gone to war in vindication of her own rights, will any one say that Brazil must necessarily, and as matter of obligation to the Confederate Government, have gone to war with the United States? Surely it is for a nation whose neutrality has been infringed to judge for itself whether it will or will not resent it. In some cases, as where the disparity of force is very great, it might not think it politic to do so. In others, where the degree of offence is comparatively slight, it might not be thought worth while to follow the matter up. In the present instance, Great Britain, having no diplomatic relations with the Confederate Government, had no opportunity of remonstrating. This is an inconvenience which necessarily accompanies the recognition of belligerency without that of sovereignty, though the inconvenience is counterbalanced by other weighty considerations. Being thus unable to remonstrate, will it be said that Great Britain ought to have thrown the weight of her arms into the contest going on between the Confederate States and their more powerfull opponent, because these vessels had managed to get away from her shores? especially when there was very great doubt whether, in respect of vessels armed out of British jurisdiction, any offence had been committed against international law. Would the world's opinion have sanctioned such a proceeding? At all events, would not public opinion have reprobated the seizure of these vessels as an act of unpardonable perfidy, if they had been allowed to enter British ports without notice, a deliberate intention of seizing them having been first formed? || In truth, this contention on the part of the United States is entirely an afterthought. During the whole course of the war, amid the numerous demands and reclamations made by the United States' Government and its Representatives, it never occurred to them, so far as I am aware, to suggest to Her Majesty's Government to detain these vessels on their entering British ports. The conclusion, then, at which I arrive, is that, even if Great Britain had a right by international law to seize these vessels, she was not bound to do so, and in common honour could have not done so without giving notice; that the United States had no right to insist on the seizure of them, and, at all events, never having attempted to do so, can have no right now to claim damages by reason of its not having been done. || But it has been said that, whether or not Great Britain had the right to seize, or whether or not, having the right, she was under any obligation to exercise it, or whether or

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not she was bound to give notice of the intention to do so, the Government should have resented the violation of its law by refusing to the delinquent vessels entrance into British ports. ‖ The answer is, that the questions — whether the law of Great Britain had been broken, and whether the vessels were, in this sense, delinquent or not, were in each case disputable questions of mixed law and fact, which could not in any way be investigated between Great Britain and the Confederate States, and on which the opinions of high legal authorities in Great Britain were known to differ. It was the right and duty of the British Government, under such circumstances, to take the course which it deemed most consistent with the maintenance of a strictly impartial neutrality; and if, under the influence of this motive, it decided (as it did) against attempting to discriminate between the different vessels bearing the public commission of the Confederate States, it acted in the exercise of its own proper right, and violated no obligation due to the other belligerent. The Rules of the Treaty of Washington are wholly silent as to any such obligation, and the law of nations imposes none.

[Die Shenandoah in Melbourne.]

I pass on to another subject of complaint, namely, the supply of coal which the Shenandoah was allowed to receive and which is said to have been excessive — an assertion which, I confess, I have heard with no little surprise. It is true that the Shenandoah still had, on her arrival at Melbourne, if reliance is to be placed on a journal kept by a midshipman on board, 400 tons of coal in her bunkers; it is true that she was there allowed to take in 250 tons more. ‖ But international law, as we have seen, imposes no limitation on the quantity of the supplies which a belligerent vessel may obtain in a neutral port. The only restriction in this case would therefore arise from the Government Regulation that no vessel should be allowed to take more than sufficient to convey her to her nearest port. Now the nearest port of the country of the Shenandoah was some 13,000 to 14,000 miles from Melbourne; and all the coal which could possibly have been stowed in the vessel would have fallen infinitely short of what she must have consumed on such a voyage if she had had recourse to her steam power. It is true we are told that she was an excellent sailer. Mr. Evarts informed us, I believe, on the authority of a midshipman's journal, afterwards published under the title of "The Cruise of the Shenandoah", that her speed under canvas was at times equal to 16 knots an hour; but it did not occur to that distinguished counsel tell us how the Governor and his Council could possibly know that fact, unless, indeed, they were to know it by intuition. Although, from the vessel's build and appearance she might be thought likely to be a fast vessel, all they knew of her was that she was a screw steamer, adapted to sail or steam. ‖ The argument that a vessel is not to be allowed coal

because she is not likely to use it, strikes me, I must say, as a very singular one. If she does not use it, what harm can arise to any one from her having it on board? "Yes, but", says Mr. Evarts, "this coal was to enable her to have an advantage over the whalers when among the ice". But here we must have recourse again to the intuitive powers of the Governor and his Council. For how else, in the name of common sense, were they to know that the intention of Captain Waddell was to go among the icebergs in pursuit of the whaling-vessels? Captain Waddell knew his business too well to let his intentions in this respect be known. Nor is it at all reasonable to say that, because a vessel can both sail and steam, she is not entitled to have whatever is necessary for navigation in both forms. The Government Regulations, which allow a vessel to have the quantity of coal necessary to take her to the nearest port, make no distinction (any more than does international law) between vessels depending wholly upon steam, and others navigating both by steam and sail. The Regulation must be taken to have reference to the quantity of coal which would be required to take the vessel to her nearest port, if she had to depend on steam alone. || It would be absurd to suppose that, in every case, the local authority is to enter upon a nice calculation of the sailing power of the particular vessel, and allow a greater or less quantity of coal according to the estimate that may be formed of the rate of speed under canvas. A vessel is entitled to the advantage of all her motive power, however derived. Either may fail. A vessel under sail may carry away her masts. In this instance, had the Shenandoah been going homewards this might have happened when she was thousands of miles from home. It seems to me, therefore, that it was not a question for the local Government whether this vessel was a good sailer or not. The only question was, what amount of coal she was at liberty to have according to the regulation. Referring to that, and looking to the immense distance between her and her nearest port, no one, as it seems to me, can reasonably say that she was allowed a single ton too much. || But it is said that, by taking in coal at Melbourne, with the ulterior purpose of making war on the whaling-vessels of the United States, this vessel was enabled to make the port of Melbourne a "base of naval operations." || As I have already observed, when the law on this subject was under discussion, the application of such a rule in favour of the United States to the prejudice of Great-Britain would be a flagrant injustice, seeing that, as I then showed, ships of war of the United States obtained many thousand tons of coal, under exactly the same circumstances, that is to say, when they had particular "naval operations" in immediate view. If this doctrine is to hold, every time a vessel, having a particular belligerent purpose in view, takes in coal, and proceeds on such purpose, the port will be at once converted into a base of naval operations. The same reasoning would of course apply, and in the same degree, to repairs. || This proposition is, to my mind, utterly unreasonable, as being

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altogether inconsistent with any idea that ever has been, or properly can be, attached to the term "base of operations;" and is, moreover, in the most flagrant degree unjust, if it is to have the effect of imposing on the neutral any responsibility to the other belligerent. For it is obviously inconsistent with common justice that the neutral State shall suffer for that to which it is not only no party, but of which it has also no knowledge. By the common practice of nations, as well as by the regulations of the Government, a belligerent vessel is allowed to have the benefit of necessary repairs, and to take a supply of coal without the Local Government being entitled to inquire into her ulterior destination. No such inquiry is prescribed by the Regulations in question, or by those made by any other nation; nor has any publicist ever suggested that such a proceeding should be adopted. No such inquiry could, with propriety, be made; nor could the Commander of the ship be called upon to answer it if made. The knowledge of his intended course might expose him to the attack of an enemy. No such question, so far as I am aware, was ever put to a belligerent vessel during the whole course of the war. None such was ever put to a ship of the United States when applying for coal at a British port. This being so, to say that, the local government being in ignorance of the destination of the vessel, a responsibility is to be incurred because the belligerent, in obtaining this accommodation, has an ulterior operation in view, as to which, by some violent distortion of language, the port may be said to be thus rendered a base, but of which ulterior operation the neutral knows nothing, appears to me to be an outrage not only on the first principles of justice, but also upon the plainest dictates of common sense. || Thus far I am unable to discover anything but a desire on the part of the local Government to comply with the Queen's Regulations, and to discharge their duty, faithfully and conscientiously, in preventing any breach of neutrality on the part of the commander of the Shenandoah in the enlisting of men; nor does it appear to me that any blame can reasonably or justly attach to them in respect of permitting necessary repairs to be done to the ship, or as to the time allowed for that purpose, or as to the quantity of coal which the vessel was suffered to take on board.

The only question which presents any real difficulty is whether sufficient care was exercised to prevent men from enlisting in the Shenandoah immediately prior to her departure. || For, it is an undoubted fact that, on the night before the vessel left, which it will be remembered was on the morning of the 18th, a considerable number of men contrived to get on board and sailed away in the Shenandoah, as part of her crew . . . . || I will not go the length of saying that, in my opinion, the police were on this occasion as vigilant and active as they might have been. There was reason to suspect the officers of the Shenandoah of a design to recruit their crew from the port; and as that purpose had so far been prevented by the look-out kept in respect of the two ships, the Eli Whitney and the Maria

Ross, suspected of being intended to take the men to the Shenandoah when outside the waters of the colony, it was not unlikely that, on the eve of the ship's departure, some attempt would be made by the men who wished to ship in her to get on board. The police had received instructions to use the utmost vigilance to prevent anything of the kind being done, but they appear to have failed to carry out their instructions at a critical moment. A few resolute officers, stationed on the two piers of Williamstown and Sandridge, would probably have prevented the men from embarking, or deterred the watermen from conveying them to the ship. But the Governor and Council acted throughout under an honest and thorough sense of duty, and exhibited in all their relations with the Commander of the Shenandoah the fullest determination to prevent, as far as in them lay, any infraction of neutrality. || Possibly their suspicions may have been removed too easily by the positive word of honour of the American Commander and his officers, but, as has been more than once observed, it has ever been a received rule of official conduct to trust implicitly to the honour of an officer. || To hold, under such circumstances, that because the local police were not as vigilant as they might have been, or because under cover of the darkness men may have contrived to elude their vigilance, a nation is to be held liable for damage done by a vessel to the extent of a claim of many millions of dollars, would be, as it appears to me, to carry the notion of "due diligence" to an unheard-of and unwarranted length, and would be calculated to deprive the decision of the Tribunal of respect in the eyes of the world. || Questions have been raised as to the number of men thus added to the crew of the Shenandoah, and as to the proportion which the number thus added bore to the number of her crew on her arrival in the port. But to this I attach no value. The second Rule of the Treaty prohibits any recruitment of men. There can be no doubt that the number was sufficient to constitute a recruitment. And though it may be true that, independently of the addition thus made, the number of the crew remaining after the desertions at Melbourne would have been sufficient to enable the vessel to carry on operations against ordinary merchant-vessels, and therefore, if the operations of this ship had been directed against the same class of vessels as before, the augmentation of the crew would have made no difference as to her capacity for mischief, yet I agree with the Counsel of the United States that it is unlikely that without such augmentation she would have ventured into the dangerous polar seas to destroy the whaling-vessels. My opinion is based on the ground that the authorities cannot justly be held responsible for what happened in spite of their anxious desire and endeavour to ensure the observance of neutrality.

. . . .

|| I cannot, therefore, concur in the decision of the majority of the Tribunal that the British Government responsible for anything that happened with reference to the Shenandoah at Melbourne. Looking to the Regulations, and

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the distance of the vessel from her nearest port, I cannot agree with the President that too much coal was allowed. I cannot agree that repairing or taking in coal at a particular port, on the way to some ulterior operation, makes the port a base of naval operations; still less that the neutral can be affected thereby when he is ignorant of the ulterior operation so contemplated. I cannot agree that where the government of a colony is honestly desirous of doing its duty and maintaining neutrality, the fact that men anxious to ship on board a belligerent vessel elude the vigilance of the police in the night time is to make the parent State liable for all the damage such vessel may afterwards do. And I protest, respectfully but emphatically, against a decision based on grounds to my mind so wholly untenable.

[Schluss.]

I have now gone through the cases of all the different vessels in respect of which claims have been preferred for losses sustained through the alleged want of due diligence on the part of the British Government. After all that has been said and written, it is only in respect of two vessels, both equipped at the very outset of the civil war, and before the contrivances resorted to had become known by experience, that this Tribunal, which has not shown a disposition to take too indulgent a view of the fulfilment of neutral obligations, has been able to find any default in British Authorities at home; while, in respect of a third, the Tribunal, by a majority of one voice only, has fixed the Government with liability for an alleged error in judgement of the Governor of a distant Colony in respect of allowance of coal, and for the want of vigilance of the police in not preventing men from joining a Confederate vessel at night. We have here the best practical answer to the sweeping charges so perseveringly brought against the British Government and people. || The Tribunal having thus settled the instances in which it is prepared to hold Great Britain responsible, we have next to consider the important question of damages. || The first question which presents itself on approaching the subject of pecuniary compensation is, whether the Tribunal ought to award a sum in gross, or whether it would be advisable to refer the amount of compensation to be settled by assessors under the provisions of the Treaty of Washington. On the one hand, as it is admitted that these claims have never been audited, or even been *bonâ fide* examined, by the Government of the United States, it must necessarily be extremely difficult to estimate the amount which should be awarded in respect of them; more especially as it becomes apparent that a large proportion of them are most extravagant in amount, while none of the ordinary documents evidencing the value of shipping property or merchandize have been brought before the Tribunal. On the other hand, it is for many reasons desirable that the matters in dispute should be disposed of and settled as soon as possible, so

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as to put an end to all further disputes, as well as to avoid giving the opportunity, which would be afforded by sending the settlement to assessors, to invent fresh claims and present them from day to day before the latter. On the whole, I have come to the conclusion that, if the clearly inadmissible claims be rejected, and the extravagant claims properly reduced, justice may substantially be done by awarding a lump sum, and that the advantage of such a course would counterbalance the disadvantages which it no doubt involves. || The claims for individual losses, which were in April last advanced in the Revised Statement, amounted to 25,547,161 dollars; besides which a claim for "costs of pursuit and capture," exceeding 7,000,000 dollars, was preferred on the part of the United States' Government. To all which was superadded a claim for interest of 7 per cent. per annum from the times of capture until payment. These claims have, however, to be diminished by reason of Great Britain having been pronounced by the Tribunal to be liable in respect only for the captures made by the Alabama, Florida, and Shenandoah, and for those made by the latter only after her departure from Melbourne. On the other hand, the claims in respect of the other vessels having been rejected, the representatives of the United States, on the 19th of August last, presented new and increased claims to the extent of 2,150,000 dollars, so that the claims then advanced by the United States in respect of those captures, for which Great Britain has been held liable, amounted, after correcting certain admitted errors of calculation, to 19,146,444 dollars, over and above a claim of 6,735,062 dollars for the cost of pursuit and capture in respect of the three vessels and the claim of interest at the rate of 7 per cent. | I concur entirely with the rest of the tribunal, in holding that the claim for cost of pursuit and capture must be rejected. This item expense formed part of the general expense of the war. The cruisers employed on this service would, probably, have been kept in commission had the three vessels in question never left the British shores. || We have, therefore, only to deal with the claim for losses sustained by individual citizens. || Now there can be no doubt that the only damages which the Tribunal is authorized to award under the Treaty for the indemnification of American citizens must be confined to loss actually sustained by destruction of ships, cargoes, or personal effects. Where damage to property arises, not directly from wilful injury, but indirectly only, from want of due care, an indemnity against actual loss is all that, by the law of England or America, or by any principles of general jurisprudence, can possibly be awarded. | If, therefore, this Tribunal, instead of sending the amount to be paid by Great Britain to be ascertained by assessors, should think fit to award a sum in gross, as it is empowered to do by the Treaty, it must still, in fixing the latter, proceed on the best estimate it may be enabled to arrive at, on the data before it, of the losses actually sustained by American citizens through the three ships for which Great Britain is to be held liable. || The claims for individual losses by reason of property de-

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stroyed by the three ships in question amounts to the sum of 19,146,444 dollars; but this amount includes items which involve important questions of principle, and deserve special consideration.

These are: —

	Dollars
(A.) The claims in respect of the whaling-vessels destroyed, for loss of prospective catch, amounting to	4,009,301
(B.) The claims for gross freights amounting to	1,007,153
(C.) The double claims, amounting to	1,682,243
(D.) The new claims, presented for the first time on 19th August, amounting to	2,150,000
	8,848,697

(A.) There can be little doubt that the amount claimed for the prospective catch of the whalers, which is, in fact, about double the value assigned to the vessels and their outfits, is so extravagant as almost to justify at once the rejection of the whole claim. || The true character of these claims will be seen by comparing the amount of the demands now made for the prospective earnings of the whalers, with the original list of claims forwarded by Mr. Seward to Mr. Adams in 1866, and communicated by the latter to the British Government. It thus appears that these claims have, without any assignable reason, increased to such an extent that they are now sometimes double, sometimes treble, and sometimes even more than five times what they were in the original list. The following Table exhibits some of the more striking cases: —

	Claims for Prospective Earnings in the Original List.	Similar Claims in the Revised Statement presented in April last.
	Dollars.	Dollars.
Alert	30,000	144,869
Kate Cory	1,820	19,293
Lafayette	33,446	50,000
J. Howland	53,075	196,158

Many other similar instances of extraordinary and arbitrary increase might be cited, but the above will suffice to show (what, indeed, a mere comparison of the claims themselves with the value and tonnage of the vessels but too clearly proves), that these demands are of a most extortionate character. But, independently of the undeniably exaggerated amount of the claims, a demand for *gross* prospective earnings as distinguished from *nett* earnings is quite incapable of being maintained. This is admitted in the Argument of the United States, and is clearly demonstrated in the British Report. According to the decisions of the Supreme Court of the United

States, the only allowance which ought to be made in respect of prospective catch is in the nature of interest from the time of the destruction of the vessel. || I should myself be disposed to adopt a more liberal mode of compensation, and to award for prospective profits a reasonable per-centage on the values of the vessels and outfits; but I cannot but think that if a year's wages is to be awarded as proposed for the officers and crews, the amount of 25 per cent. on those values as claimed in the American Tables presented on the 26th of August, in case of the claim for prospective catch being disallowed, far exceeds what is properly assignable. The total amount claimed for the whaling-vessels and outfits, an amount, which, as I shall presently show, bears every sign of great exaggeration, is 1,780,691 dollars. A claim of 659,021 dollars is advanced for secured earnings. To award a further sum of 400,000 dollars, as claimed, in lieu of prospective profits, would make a total allowance of over 1,000,000 dollars (or 60 per cent. of the original values of the vessels and outfits) for secured and prospective outfits alone; in addition to a sum of 588,000 dollars, or more than 30 per cent. more, for the wages of the officers and crew (which are supposed to come out of the gross earnings), and this irrespective of the fact of interest being claimed on the whole from the date of the capture.

(B.) As to the claims for gross freights amounting to 1,007,153 dollars. That these claims are also greatly exaggerated appears from the several instances to be found commented on in the British Reports; but the same fact follows beyond a doubt from the following consideration: — || In a Report presented by a Committee of the House of Representatives of the United States in 1870 a Table is to be found (Table XVI) giving the value of the *gross yearly* earnings of all American vessels engaged in the foreign carrying trade from 1861 to 1870. The value of these gross yearly earnings is there stated to amount to 33$^1/_3$ per cent. of the value of the vessels. On looking at the British Tables it will be found that the amounts claimed for freight, although for individual voyages not exceeding on the average six months in duration, are more than 47 per cent. on the alleged values of the vessels, from which it would follow that these claims are exaggerated to the extent of nearly 60 per cent. || Independently, however, of the exaggeration in amount, it is clear that a claim for *gross* freight as distinguished from *nett* freight cannot be supported by any sound reasoning. It is, moreover, inconsistent with all the English and American authorities on the subject. The United States' Counsel seemed to have themselves thought such a claim hopeless; for, on the 19th August last, they, for the first time, asserted that these were claims, not for gross, but for nett freights. It is sufficient on this point to say that, in the face of the well-known official estimate above referred to, according to which the *gross* average *yearly* earnings of American merchant-vessels amnonted only to 33$^1/_3$ per cent. of the values of the vessels, an assertion that claims amounting to more than 47 per cent. of such

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values were advanced for *nett* and not for *gross* freights on voyages not exceeding, on the average, half a year in duration, is one which carries its own refutation on the face of it, especially when it is remembered that these claims are generally presented in the Revised Statement as claims for charter-party or bill-of-lading freight. || Under these circumstances I cannot but think that the allowance of 50 per cent. on these claims, which the Tribunal received with favour and is prepared to adopt, is far in excess of what would in justice satisfy them.

(C.) As to the double claims. || They consist in the main of claims made by the owners for the value of their property, simultaneously with claims advanced by insurance companies with whom the property was insured, and who paid the owners the amount of their loss. To pay the owners and the insurance companies these double claims would be clearly equivalent to paying the losses twice over. One of these claims, therefore, must necessarily be rejected. || One cannot but regret that these claims should have been advanced, and that the United States' Government should not at once have expunged them as inadmissible, instead of allowing them to be included, without exception, in the total claims of the United States. || These double claims are of two descriptions: first, those which are avowedly and intentionally made, or where, to use their own words, "the claimants protest against any diminution of their claims by reason of their having been paid by insurance companies;" secondly, those which are tacitly made. || As regards the second class of double claims, viz., those tacitly made, it is enough to observe that they were pointed out many months ago in the British Reports as double claims, and the United States' Government, although it has had in its possession all the evidentiary documents bearing on the same, has never denied their character as double claims. It is, therefore, clear that all these double claims amounting to the large sum of 1,682,243 dollars must be struck out.

(D.) As to the new claims presented, for the first time, in August last. || As a majority of my colleagues have already intimated an opinion that these claims ought to be excluded from consideration in awarding a lump sum, it is only necessary for me to state that I am decidedly of the same opinion, because the claims are entirely unsupported by any evidence, and are merely based upon assumptions as to the amount of wages the officers and crews might or should have been receiving, and the amount of personal effects which they might or should have had on board at the time of capture, and which they have lost in consequence of it. I find, moreover, in the Revised Statement presented with the United States' Counter-Case, claims to considerable amounts actually preferred by the officers of some of the vessels for loss of wages and, personal effects, and, as I shall show, those gentlemen have been by no means disposed to undervalue their property. Finally, it seems to me entirely inconsistent both with the letter and the spirit of the Treaty of Washington that, at the last moment, the request of the Tribunal for

explanatory Tables to assist it in the discussion of the various items of claims should be taken advantage of to swell the amount already presented, without giving the British Government an opportunity to advance argument and evidence in opposition to such increase. For all these reasons I am clearly of opinion that the claims for prospective catch and for gross freights, the double claims and the new claims presented in August last, altogether amounting to the sum of 8,848,697 dollars, must be rejected.

I now proceed to consider the questions relating to the value of the property actually destroyed. It is admitted in the Argument of the United States' Government that these claims had never been audited by that Government. I cannot help thinking it would have been better if, before the United States called upon this Tribunal to estimate the value of claims to be assessed by it without an inspection of the documents which are said to be filed at Washington, these claims had been audited under the authority of the United States' Government. Had this been done I think it is only fair to assume that the very numerous demands which are manifestly extravagant would have been diminished in amount in the same manner as the claims in respect of the vessels sunk in the River Seine (more than once referred to in the British Reports) were reduced after they had been thoroughly sifted by Her Majesty's Government. The Tribunal is, in fact, called upon to estimate the values of vessels, the age and class of which are not given, and the values of cargoes, of which neither the description nor quantity is stated. Under these circumstances it is manifest from the experience every day gained in courts of justice, that a very considerable deduction ought to be made from the estimates presented by the claimants in respect of the losses for which they are claiming compensation. To hold Great Britain simply liable for the amounts demanded by the claimants would not be to award the latter fair compensation, but to grant them enormous profits.

I now proceed to consider the values of the vessels — and, first, the whalers. The fact of the extraordinary express double claims advanced in respect of these vessels is of itself sufficient to make one look with some suspicion on the other items of claim. I believe that the estimate of 100 dollars per ton for ship and outfit, proposed in the British Reports, is such as would be accepted as adequate by persons acquainted with the character and value of whaling-vessels. It is, moreover, borne out by the fact that the claims for insurance in the Revised Statement show that these vessels were not insured at so high a value. But I am ready to refer to a standard given by the claimants themselves. I find that, in the case of the fourteen whalers destroyed by the Alabama, with a total tonnage of 3,560 tons, a claim is advanced for vessels and outfits of 409,233 dollars, which is equivalent to a valuation of less than 115 dollars per ton. In the case of the whalers destroyed by the Shenandoah, on the contrary, with a total tonnage of 8,560, the claim under the same head amounts to 1,325,768 dollars, or

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very nearly 155 dollars per ton. I cannot see why the average value of the whalers destroyed by the Shenandoah should so vastly exceed that of those destroyed by the Alabama, and I certainly think the average in the latter case may be taken as likely to be more near the mark. || As regards the merchant-vessels I see no reason to doubt that the British average estimate of 40 dollars per ton is adequate; but there is one mode of arriving at an average estimate which is open to no objection. It appears from the same Table, in the Report presented to the Congress of the United States already referred to, that the average value of American vessels engaged in the foreign trade was, in the year 1861, 41 dollars per ton, and that it has, since the year 1862, been 45 dollars per ton. It will be found on looking at the United States' Argument, that it is there strongly urged that the depredations committed by the Confederate cruisers occasioned a very serious diminution in the value of American shipping property. This assertion seems directly opposed to the statistical information given in the Table I have just referred to; but whether it be or be not correct, it cannot be doubted that an estimate of the merchant-vessels at the rate of 45 dollars per ton must be a very liberal estimate. The adoption of this valuation would cause the British allowance to be increased by 200,000 dollars, but it would cause the claim of the United States to be diminished by more than 500,000 dollars.

I now come to the claims for cargo. Those claims, it must be remembered, include claims for the value of goods, insurances, commissions, and profits on the same cargoes; profits which will be found to be claimed at the rate of sometimes 25, sometimes 50, and sometimes as much as 100 per cent. Moreover, it is important to observe that, as merchants generally considerably overvalue their property in policies of insurance, and always include in the amount insured the premium of insurance itself, a considerable reduction ought to be made from the amounts claimed by insurance companies. Again, for reasons fully stated in the first British Report,[1]) it is generally impossible to trace the double claims which are advanced for cargoes; and yet the probability certainly is that they exist to at least as great an extent as they have been proved to exist in the cases of vessels and freights. Taking all these circumstances into consideration, I believe that most persons who study these claims, and who are acquainted with the subjects to which they relate, will consider the reduction of 12 per cent. which has been made in the British estimate from the total claim for cargo, commission, profits, and insurances on the same, a very moderate reduction. || The last item of claims to be considered is that relating to personal effects. That some of these claims are exorbitant is proved by the various instances cited in the British Reports. I will direct attention to a few of them. || Ebenezer Nye, the master of the Abigail, a whaling-vessel of 310 tons, has claimed upwards of

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[1]) British Appendix, vol. VII, p. 13.

16,000 dollars, or 3,200*l.* for the loss of personal effects on board that vessel. Again, the master of the Rockingham, a vessel of 976 tons, has claimed for personal effects 8,054 dollars, or 1,600*l.* In the Winged Racer a passenger claims for loss of office as Consul 10,000 dollars, over and above 1,015 dollars for loss of personal effects. Finally, in the Crown Point, a vessel of 1,100 tons, the master and the mate each advance claims for 10,000 dollars. Excepting in these and some other similar cases, in which the demands are evidently grossly exaggerated, all the claims for personal effects have been allowed in the British estimate, and I see no reason whatever for adding to the amount which is proposed to be allowed in that estimate under this head. || On the whole, therefore, I am of opinion that if half a million dollars were to be added to the British estimate, more than adequate compensation will in all probability be granted for any direct losses which may have been occasioned by the Confederate cruisers, and that, therefore, the Tribunal ought to assess these claims at an amount not greater than 8,000,000 dollars. || In the observations on M. Staempfli's calculations which I submitted to the other members of the Tribunal on the 2nd of September, and which will be found in the Protocol of that date, I have shown that, even including the allowances of 988,000 dollars for profits and wages of the whalers, and the allowance of 50 per cent. on the claims for freights, and striking a mean between the British estimate and the gross claims for the other items not absolutely disallowed by the Tribunal, the amount should not exceed 10,000,000 dollars in round numbers.

The Tribunal having formed its estimate of the actual loss sustained in respect of ships and property at the time of their destruction, a most important question presents itself, whether, to such actual value, interest from the time of loss should be superadded. Upon this question, which is entirely in the discretion of the Tribunal, according to what it may deem equitable and right under all the circumstances, we have had the advantage of very able arguments. Looking to technical considerations alone, Sir Roundell Palmer's argument appears to me to be unanswerable. But I confess I should be disposed, when able to deal with a case of indemnity, unfettered by technical considerations, as I think we may do in the present instance, to hold that where a pecuniary indemnity against loss is to be given, such indemnity is not complete unless the party is compensated, not only for the property actually destroyed, but for the profit — here to be represented by interest — which that property would have brought him. If a man loses property worth 1,000*l.*, which, but for the loss, he would have continued to turn to some profitable account, and after a given period the actual value, namely, the 1,000*l.* is given to him, and no more, it is plain that he remains a loser of all the profit he would have realized in the meantime; in other words, he remains to that extent unindemnified. Under ordinary circumstances, therefore, I should have been willing to award interest, when awarding compen-

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sation for property destroyed. But there are in this case most peculiar circumstances which make me incline to a different conclusion. || The first is, that neither the British Government, nor British subjects, were the authors of the damage done. All that can be ascribed to the British Government is want of diligence in not preventing these vessels from leaving British waters on their work of mischief. Professor Bluntschli has done justice to the British Government in this respect: —

"Il ne faut d'ailleurs pas perdre de vue que tous ces effets désastreux sont en premier lieu imputables, non pas au Gouvernement Anglais mais aux *croiseurs* eux-mêmes. Personne n'accusera le Gouvernement Anglais d'avoir donné mission de détruire les navires de commerce Américains, ou d'avoir, par ses agissements, entravé ou endommagé la marine Américaine. Ce que l'on peut lui reprocher à bon droit (en supposant que les faits cités plus haut doivent être considérés comme avoués ou prouvés), ce n'est pas un *fait* mais une *omission contre le droit.* Sa faute ne consiste pas à avoir équipé et appareillé les corsaires, mais à *n'avoir pas empêché* leur armement et leur sortie de son territoire neutre. Mais cette *faute* n'a qu'un rapport *indirect,* et nullement un rapport *direct,* avec les déprédations réellement commises par les croiseurs." [1])

American citizens have suffered by the acts of American citizens. Great Britain is to make good the injury. Why? Because, in order to commit these acts, the wrong-doers began by violating her laws, and her Government was not quick enough in preventing them. But who were the American citizens who did these things, and brought these injuries and losses on American citizens? Private individuals? No! Eleven States, heretofore an integral portion, and now again an integral portion, of the North American Union — in other words, an integral portion of the body who are the Plaintiffs against Great Britain in this memorable suit. And, to make the anomaly of the position more complete, but for concessions voluntarily made, Great Britain would have been enabled to say, first, that she was not, and could not be, liable to another nation for losses sustained through breaches not of international but of her own municipal law; next, that if she, on the one hand, was liable for injury done to American citizens, because her Government by greater diligence might have prevented them, she, on the other hand, might have claimed to be recouped by States, now forming an integral part of the Union, as having been the actual wrong-doers through violation of her law, whatever sum she was obliged to pay as compensation. || For, had the Confederate States possessed, or had they succeeded in acquiring an independent nationality, Great Britain would have had a perfect right to insist on being indemnified for a pecuniary loss incurred through a violation by them of her neutrality and of her law. The nationality of those

[1]) "Revue de Droit International, 1870", p. 473.

States is now again united with and merged in that of the United States, now plaintiffs against Great Britain. And though, the compensation being asked for losses suffered by individual American citizens, and not by the Government of the United States, Her Majesty's Government were, in my humble opinion, right in not taking their stand on such an objection, I cannot but think that, looking to all these circumstances, this Tribunal, in the exercise of the equitable and unfettered jurisdiction with which it is invested, might well decline to add interest to the amount of the loss actually sustained. || Even if interest should be given, it seems to me that, as the United States might have had, as far back as the year 1869, an arbitration for the purpose of having these identical claims adjudicated upon, an arbitration having been offered by Great Britain and accepted by the Executive of the United States, and having only failed because rejected by the American Senate, all claim to interest, as from that date, should, as matter of equity, be disallowed by the Tribunal. || At all events, I can see no reason why, under all these circumstances, anything more than the lowest rate of interest anywhere prevailing in the United States should be allowed, and I cannot concur in the rate of 6 per cent. adopted by the Tribunal.

I have now travelled through the wide range of this inquiry, partly in order to place the facts, over which a cloud of prejudice has been raised, in their true light; partly to explain the reasons which prevent my concurring in the award which the majority of the Tribunal have thought it right to pronounce. || The result is that, while I differ from the grounds on which the decision of the Tribunal in the case of the Alabama is founded, nevertheless, owing to the special circumstances to which I have hereinbefore called attention, I concur in holding Great Britain liable in respect of that ship. || With respect to the Florida, on the best judgment I can form upon a review of all the facts, the charge of want of due diligence is not made out. I cannot concur in thinking that anything was left undone by the Government of Her Majesty which could be reasonably expected of them, or the omission of which can justly subject them to the charge of want of due diligence and care. I cannot agree that the law of Great Britain should have been changed because of the breaking out of the civil war. First, because the existing law was adequate to all that could reasonably be expected; secondly, because, at all events, there was at the time no reason for believing it other than sufficient; lastly, because, even if the law might have been improved and the hands of the Executive strengthened with advantage, the United States could have no possible right to expect any amendment of the British law so long as their own remained unaltered. || As to the Shenandoah, I cannot express too strongly my dissent from the decision of the majority. || Not concurring in the decision as to the Florida and Shenandoah, I cannot, of course, concur in awarding the sum which is to be paid on account of the damage done by them. || Even if this were otherwise, I should still hold the amount

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awarded greater than it should have been. || Lastly, under the very special circumstances out of which these claims have arisen, it appears to me that the allowance of interest was uncalled for and unjust. || But, while the award of the Tribunal appears to me to be open to these exceptions, I trust that, by the British people, it will be accepted with the submission and respect which is due to the decision of a Tribunal by whose award it has freely consented to abide. || The United States, on the other hand, having had the claims of their citizens for losses sustained considerately weighed, and compensation awarded in respect of them, will see, I trust, in the consent of Great Britain to submit these claims to peaceful arbitration, an honest desire on her part to atone for any past errors or omissions, which an impartial judgment might find to have existed — and will feel that all just cause of grievance is now removed — so that, in the time to come, no sense of past wrong remaining unredressed will stand in the way of the friendly and harmonious relations which should subsist between two great and kindred nations.

Geneva, September 14, 1872.

A. E. Cockburn.

Nr. 5034.

GROSSBRITANNIEN. — Lord Tenterden to Earl Granville.

Geneva, September 14, 1872.

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My Lord, — after the proceedings of the Tribunal of Arbitration had been concluded and the Protocol approved, Count Sclopis read an address, of which I have the honour to inclose a copy. || I have, etc.

Tenterden.

Beilage.

Address by Count Sclopis.

Messieurs et chers Collègues! Notre tâche est remplie. Le Tribunal d'Arbitrage a vécu. Pendant son existence les meilleurs rapports se sont constamment maintenus entre nous. En ce qui me concerne je ne saurais assez vous exprimer, Messieurs, toute la reconnaissance que j'éprouve pour m'avoir soutenu par le concours de votre indulgence et de vos lumières dans l'exercice des fonctions délicates que vous m'avez confiées. || Nous avons été heureux de voir le succès complet obtenu par la première partie de notre oeuvre conçue uniquement dans le sens d'une initiative officieuse. Nul éloge plus flatteur pouvait nous être adressé que celui sorti des voix les plus auto-

risées dans les deux Gouvernements intéressés dans la controverse; elles reconnurent que nous avons agi en amis dévoués des deux Puissances. Tel était en effet le sentiment vrai et profond qui nous animait. || Dans la seconde partie de notre travail, renfermée entièrement dans le cercle de l'autorité judiciaire qui nous avait été conférée par le Traité de Washington, nous avons mis un soin d'examen scrupuleux accompagné d'une impartialité absolue à ne pas dévier un instant des règles de la justice et de l'équité. || La coopération des éminents juristes qui assistaient les deux Gouvernements, ainsi que celle des Agents que les représentaient, nous a aidés puissamment dans ce travail. Nous sommes heureux de leur en offrir ici tous nos remerciments. || Nous emportons avec nous le témoignage de notre conscience de ne pas avoir failli à notre devoir. || Nous formons des voeux fervents pour que Dieu inspire à tous les Gouvernements la pensée constante et efficace de maintenir ce qui est le désir invariable de tous les peuples civilisés, ce qui est, dans l'ordre des intérêts moraux ainsi que dans celui des intérêts matériels de la société, le bien de tous les biens — la paix. || Notre dernier mot sera pour Genève, cette cité noble et hospitalière qui nous a si bien accueillis; en lui disant adieu nous pouvons l'assurer que son souvenir ne s'effacera point en nous. || Le Tribunal a cru qu'il serait agréable au Gouvernement de cette République de garder dans ses archives un témoignage de ce qui s'est passé à l'Hôtel de Ville dans cette occasion. || Il a ordonné qu'une expédition de l'acte de décision signée par tous ses membres soit déposée aux archives du Conseil d'Etat. || Encore une fois en prenant congé de la ville de Genève nous lui souhaitons tout le bonheur qu'elle mérite.

San Juan-Frage.

Nr. 5035.

GROSSBRITANNIEN. — Case of the Government of Her Britannic Majesty.

His Majesty the Emperor of Germany having consented to accept the office of Arbitrator between the Government of the United States of America and the Government of Her Britannic Majesty under the provisions of Article XXXIV of the Treaty concluded at Washington on the 8th May, 1871, between the United States and Her Britannic Majesty, the Government of Her Britannic Majesty submits to the consideration of His Majesty the

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Emperor of Germany, in pursuance of Article XXXVI of the said Treaty, the following Case: —

The Question for Decision.

The question submitted to the decision of His Imperial Majesty affects so much of the boundary line between Her Britannic Majesty's possessions in North America and the territories of the United States as is comprised between the Continent of America and Vancouver's Island. || The boundary line is described in the Treaty between the United States and Great Britain of June 15, 1846, in the following general terms: —

Treaty of June 15, 1846 (Article I).

"From the point on the forty-ninth parallel of north latitude, where the boundary line laid down in existing Treaties and Conventions between Great Britain and the United States terminates, the line of boundary between the territories of Her Britannic Majesty and those of the United States shall be continued westward along the said forty-ninth parallel of north latitude to the middle of the Channel, which separates the Continent from Vancouver's Island, and thence southerly, through the middle of the said Channel and of Fuca's Straits to the Pacific Ocean; provided, however, that the navigation of the whole of the said Channel and Straits south of the forty-ninth parallel of north latitude remain free and open to both parties."

The question more immediately submitted to the decision of His Imperial Majesty is described in Article XXXIV of the Treaty of 8th May, 1871, in the following terms: —

Treaty of May 8, 1871.

"Whereas it was stipulated by Article I of the Treaty concluded at Washington on the 15th June, 1846, between Her Britannic Majesty and the United States, that the line of boundary between the territories of the United States and those of Her Britannic Majesty from the point on the forty-ninth parallel of north latitude, up to which it had already been ascertained, should be continued westward along the said parallel of north latitude to the middle of the Channel which separates the Continent from Vancouver's Island, and thence southerly through the middle of the said Channel and of Fuca Straits to the Pacific Ocean; and whereas the Commissioners appointed by the two High Contracting Parties to determine that portion of the boundary which runs southerly through the middle of the Channel aforesaid were unable to agree upon the same; and whereas the Government of Her Britannic Majesty claims that such boundary line should, under the terms of the Treaty above recited, be run through the Rosario Straits, and the Government of the United States claims that it should be run through the Canal de Haro, it is

DAS STAATSARCHIV.

SAMMLUNG

DER

OFFICIELLEN ACTENSTÜCKE

ZUR GESCHICHTE DER GEGENWART.

BEGRÜNDET

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IN FORTLAUFENDEN MONATLICHEN HEFTEN

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agreed that the respective claims of the Government of Her Britannic Majesty and the Government of the United States shall be submitted to the arbitration and award of His Majesty the Emperor of Germany, who, having regard to the above-mentioned Article of the said Treaty, shall decide thereupon finally and without appeal which of those claims is most in accordance with the true interpretation of the Treaty of June 15, 1846."

It will be observed by His Imperial Majesty, that whereas the Treaty of June 1846 speaks only of the Channel which separates the Continent from Vancouver's Island, through the middle of which the boundary line is to be run, the Treaty of 1871 speaks of the Rosario Straits and the Canal de Haro, as if there was more than one Channel between the Continent and Vancouver's Island through which the boundary line may be run and be continued through the middle of Fuca's Straits to the Pacific Ocean. || It will be convenient, therefore, to bring to the attention of His Imperial Majesty at once the hydrography of the entire space between the Continent and Vancouver's Island south of the 49th parallel of north latitude according to the best information which is in the possession of Her Majesty's Government.

The Strait of Georgia.

The 49th parallel of north latitude continued westwardly, according to the provisions of the Treaty of June 15, 1846, strikes the upper waters of the ancient Gulf of Georgia, designated by the Spaniards El Canal del Rosario, in Semiahmoo Bay. These waters are now termed, in British Charts, the Strait of Georgia. Continued across that Bay the parallel line intersects a narrow peninsula, the extreme of which was named by Vancouver, Point Roberts. This Point extends about 1¾ miles (English) south of the parallel line. Continued across the Strait of Georgia, the parallel line strikes at an acute angle a line drawn southerly through the middle of the Channel. || Respecting so much of the boundary line, as extends to the middle of the Strait of Georgia, there is no controversy between the High Contracting Parties to the Treaty of June 15, 1846, that it terminates at a point on the parallel of 49° north latitude in the middle of the Strait of Georgia. It is with regard to the line to be drawn southerly from the parallel of 49° north latitude through the middle of the Channel that the Commissioners of the High Contracting Parties have been unable to agree. The true direction of such a line drawn towards the Strait of Fuca would appear, from a survey of the waters, to be south-east by east for a distance of about 19 miles, where the Strait of Georgia gradually expands to a width of nearly 40 miles, and may be said to lose the characteristic features of a single Strait. || The space now entered upon is encumbered by numerous islands, varying in size and character, among which are three navigable channels leading into Fuca's Strait. || The most eastern of the three channels has been of late termed in British charts the Rosario Straits, and in American charts Ringgold's Channel.

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The most western is termed in British charts the Haro Strait, and in American charts the Canal de Arro. The latter term has been borrowed from the Spaniards, who term the lower part of the Strait the Canal de Lopez de Haro. ‖ There are, besides, other narrow passages; but they may scarcely be considered as highways for ships passing from the Strait of Georgia into Fuca's Strait.

The Rosario Strait.

From a point midway between Saturna Island and the Continent and 4 miles (English) south of Point Whitehorn on the shore of the Continent, the waters of the Strait of Georgia merge on almost the same line of bearing (south-east by east) into those of the Rosario Strait, passing eastward of the small Islands of Patos, Sucia, Matia, and Clark, thence between the large Islands of Lummi and Orcas. At Point Lawrence, which is the eastward point of Orcas, the Strait trends a little westward of south for 3 or 4 miles (English), and then leads by a due south course into the head-waters of the Strait of Fuca, the whole distance from the point above-mentioned, as where the Strait of Georgia merges in the Rosario Strait, being 30 miles (English). ‖ The width of the Rosario Strait varies from 6 to 1$^1/_3$ miles (English). At its nothern entrance, between the Island of Sucia and Sandy Point, on the Continent, it is 6 miles (English) across; but the Alden Bank lies almost between those two points. ‖ There is, however, a clear passage of 4 miles (English) eastward of the Bank, and a passage of 1$^1/_2$ miles (English) westward. The least water on the shoal part is 2$^1/_4$ fathoms (English). The Bank itself is an extensive patch, being 2$^1/_2$ miles (English) north and south, and more than 1 mile (English) east and west. On the greater part of it, anchorage may be had in from 5 to 9 fathoms (English). ‖ The Bank is not really an impediment to the Channel. The shoal part of it, which would be dangerous to a ship, is of small extent, and is easily avoided by good natural leading marks during the day, and by the lead a night; whilst it is a manifest advantage to a sailing-vessel to be able to anchor in a moderate depth should calms, strong tides, or fogs render it desirable, and when it would probably be impossible to fetch a harbour. The width of the Rosario Strait, southward of the Alden Bank, soon decreases to 3$^1/_2$ miles and 2 miles (English), which latter is about its average breadth. Between Cypress and Blakely Islands, it is as narrow as 1$^1/_3$ miles; but soon opens out again to 2$^1/_2$ miles. The Bird and Belle Rocks lie almost in the centre of the Strait, 3$^1/_2$ miles (English) within its southern entrance. The former is an extensive rock, 15 feet above high water. The latter lies north-north-east of it, more than half-a-mile (English), and is covered until near low water. The tides, which sweep with considerable strenght over these rocks, are calculated to render the passage between them dangerous to sailing-vessels in calms or fogs; but there is a good passage on either side of them; that to the eastward of them being 1$^3/_4$ miles (English) wide, while the width of that to

the westward is $1^1/_2$ miles (English). The Williamson and Denis rocks which extend about one-third of a mile off the south-west side of Allan Island, are easily avoided. The former is 22 feet above high water; the latter awash at low spring tides. || The Davidson Rock, occasionally uncovering itself at low spring tides, lies threefourths of a mile (English) east by south of Colville Island, and is easily avoided, as it is marked by kelp. The only other hidden danger which has been discovered to exist in Rosario Strait is the Panama Reef, which extends one-third of a mile (English) off the north-west end of Sinclair Island. This reef is marked by kelp, and uncovers itself at low water. A rock also, which is about the same distance west of Rock Islet, near the end of Cypress Island, is also marked by kelp, and uncovers itself at low water. || The tides in Rosario Strait run with considerable strength; in the narrow part between Cypress and Blakley Islands they have been found, during spring tides, to exceed 6 miles (English) an hour; in other parts of the Strait their velocity is from 2 to 5 miles (English). The depth of water, however, being from 25 to 35 fathoms over the greater part of the Strait, admits of vessels anchoring anywhere, if it should be necessary; but the most desirable stopping places are Fidalgo Bay, on the western side of the island of the same name; Walmouth Bight, on the south-east side of Lopez Island; the Guemes Passage, and Strawberry Bay, on the west side of Cypress Island.

The Canal de Haro.

On the other hand, the Canal de Haro, from the point where the Strait of Georgia may be said to lose the characteristic features of a single Strait, takes a direction about south-west and a half south between the east point of Saturna Island and the small Island of Patos, for a distance of 8 miles (English), it then turns to the westward, and runs in a direction south-west by west for almost an equal distance, until between Stuart and Moresby Islands, where it turns to the southward, and runs for a further distance of about 20 miles (English), trending to the south-east, when it strikes the Strait of Fuca. || The width of the Canal de Haro at its northern entrance between East Point and Patos Island is $2^1/_2$ miles (English), where, from the strong tides and irregularity of the bottom, heavy races occur; about the same width is carried for 12 miles (English) when, between Turn Point and Moresby Island, it decreases to something less than 2 miles (English), and the narrowest part, which is between Stuart Island and Cooper's Reef, is $1^3/_4$ miles (English). After passing south of Henry Island it gradually widens, and is more than 6 miles in breadth when it enters the Strait of Fuca. || The water is deeper and the depth is more irregular in the Canal de Haro than in the Rosario Strait, and though the tides run with about equal velocity in both, the former is more subject to irregularities and races. || The eastern or San Juan shore of the Canal is bold and steep. || After passing San Juan, when northward of Henry Island, very strong and irregular tides are met with, and

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there are rocks off Spieden Jsland which must not be approached too close. || Off Turn Point, on Stuart Island, there are strong whirls and eddy tides; and, unless with a commanding breeze, a sailing-vessel is liable to be turned round by them and lose the power of her helm. || On the western side of the Canal the principal dangers are — || The Zero Rock and its neighbouring shoals in Cormorant Bay; also the Kelp Reefs, which extend southward and eastward of Darcy Island. || Cormorant Bay, however, affords good anchorage. To enter it vessels may safely stand in midway between Gordon Head and Zero Rock, and anchor in 9 fathoms, where they will be free from any considerable tide. The Low and Bare Islands, northward of Sidney Island, should not be approached very close, and Cooper's Reef should be particularly avoided. The flood tide sets strongly to the north-west through the Miner's Channel, and sailing-vessels would be very liable to be set into it during light winds. || Plumper Sound, on the northern side of the bend of the Strait, between Stuart Island and the east point of Saturna Island, is a good anchorage, with a moderate depth of water for vessels seeking shelter, and one of the few among the group of islands, which is of easy access to a sailing-vessel. || Cowlitz Bay, on the western side of Waldron Island, is also an excellent stopping-place, easy of access or egress. || There are two small anchorages in Stuart Island, Reid and Prevost Harbours, but they are only suited to small vessels or steamers. || A vessel passing through the Canal de Haro may seek shelter in any of the abovementioned anchorages, but the great depth and irregular nature of the bottom would render it impossible for her to anchor anywhere in the main channel. || Such is the most complete account which Her Majesty's Government is able to lay before His Imperial Majesty respecting the hydrography of the two channels, which are in controversy.

Origin of the Names of the two Channels.

With regard to the origin of the respective names of the two Channels there is some uncertainty. From an account published by Mr. Robert Greenhow, the Librarian of the Department of the United States, in his "History of Oregon and California" (Boston, 1845), it would appear that, in the summer of 1790, an attempt was made by the Spaniards to explore the waters supposed to be identical with a north-west passage leading into the Polar Sea, which, according to an ancient tradition, had been discovered in the sixteenth century by a Greek pilot, called commonly Juan de Fuca. For that purpose, to quote Mr. Greenhow's words (History, p. 221), "Elisa, the Commandant of Nootka, detached Lieutenant Quimper, in the sloop 'Princess Royal,' who traced the passage in an eastwardly direction, examining both its shores to the distance of about a hundred miles from its mouth, when it was observed to branch off into a number of smaller passages towards the south, the east, and the north, some of which were channels between islands, while others appeared to extend far into the interior. Quimper was unable, from want

of time, to penetrate any of these passages; and he could do no more than note the positions of their entrances and of several harbours, all of which are now well known, though they are generally distinguished by names different from those assigned to them by the Spaniards. Among these passages and harbours were the Canal de Caamano, afterwards named by Vancouver Admiralty Inlet; the Boca de Flon, or Deception Passage; the Canal de Guemes, and the Canal de Haro, which may still be found under those names in English charts, extending northward from the eastern end of the strait; Port Quadra, the Port Discovery of Vancouver, said to be one of the best harbours on the Pacific side of America, with Port Quimper near it on the west; and Port Nunez Gaona, called Poverty Cove by the American fur-traders, situated a few miles east of Cape Flattery, where the Spaniards attempted, in 1792, to form a settlement. || Having performed this duty as well as possible, under the circumstances in which he was placed, Quimper returned to Nootka, where he arrived in the beginning of August." || It is probable that it was upon the authority of Quimper, who was an Ensign of the Royal Navy of Spain, that the name of the *Canal de Haro* was given to the Strait, which separates Vancouver's Island from the Island of San Juan, in the Spanish Chart of the discoveries made on the north-east coast of America, annexed to the narrative of the expedition of the Spanish exploring vessels, "Sutil" and "Mexicana," which was published at Madrid in 1802, by order of the King of Spain. || A very brief allusion is made in the first chapter of that narrative to Quimper's Expedition. He is stated to have sailed from the port of Nootka on 31st May, 1790, to have reconnoitred the Port of Claucaud (in Vancouver's Island), to have entered afterwards into the Canal of Fuca, to have visited certain ports and part of the coast, to have taken surveys, and to have retired on the 1st of August, the weather not permitting him to continue his labours. || Mr. Greenhow cites, as his authority, the journal of Quimper's voyage among the manuscripts obtained from the Hydrographical Department at Madrid.

On the other hand, the name of *Rosario Channel* appears from the narrative of the "Sutil" and "Mexicana" to have originated with Lieutenant Elisa, who, prior to the arrival of those vessels, had penetrated into the upper waters, now called the Strait of Georgia, and had given to them the name of "El Canal del Rosario." That name is accordingly given to those waters in the Chart, which represents the course of that expedition. Vancouver, on the other hand, in his Chart, to which reference will be made hereafter, assigns that name to certain narrow waters further north, which separate the Continent from the Island now called Texada. How the name has come to be applied in modern days to the waters of the Strait of Georgia, as they are traced southerly through the islands until they join the head-waters of the Strait of Fuca, does not appear. No name was in use, at the time when the Treaty of 15th June, 1846, was concluded, to distinguish

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these waters from the upper waters. *The fact, however, is clear, that the name assigned by the Spaniards to the upper waters of the ancient Gulf of Georgia is used in the present day to denote the Channel, which Her Majesty's Government maintains to be the true continuation of that Strait.* | The expedition of the "Sutil" and "Mexicana" in 1792 appears to have ascended the Strait of Fuca to its headwaters, having touched first at Port Cordova (now Esquimalt Harbour), at the southern extremity of Vancouver's Island. It thence proceeded between the Island of Bonilla (Smith's Island), and the south-east point of Lopez Island, at that time believed to be one and the same Island with San Juan, until it reached the mouth of the Canal de Guemes, which separates the Island of Guemes from the Continent. The expedition then passed up that Strait into the "Seno de Gaston," now Bellingham Bay, and thence along the passage which separates the Island of Pacheco (now Lummi Island) from the Continent, into the upper waters now known as the Strait of Georgia. The two vessels continued their voyage onwards in those waters past the Promontory of Cepeda, afterwards called Point Roberts by Vancouver, and were employed in reconnoitering the Boca de Florida Blanca, the first large inlet north of Point Roberts, when they were joined by Vancouver. | The expedition under Vancouver, after making a complete survey of the Strait of Fuca up to its head-waters, had also passed onward through the Channel between the north-east point of Lopez Island and the Continent; but instead of directing its course eastward, like the "Sutil" and "Mexicana," on reaching Guemes Island, it continued its course northward along the main channel, which separates Blakely Island from Cypress Island, and anchored in Strawberry Bay. | Thence it pursued its course between Orcas Island and Lummi (Pacheco) Island, until il reached Birch Bay. Passing onwards it pursued a north and west course past Point Roberts, and fell in with the Spanish vessels "Sutil" and „Mexicana," as already mentioned, off the first large inlet north of Points Roberts. | The narrative of Vancouver's expedition was made public in 1798, and there was annexed to it a chart, in which the course of the expedition is traced through the present Rosario Strait, and soundings are given at the entrance and in various parts of that Strait, and in the upper waters of the ancient Gulf in continuation of that Strait. || The name of the Canal de Arro appears also in this chart assigned to the lower part of the Strait which separates Vancouver's Island from San Juan; but the parts on the west and north shores of these waters are not shaded, intimating that Vancouver derived his information from Spanish authorities. | No soundings whatever are given of the Canal de Haro either in Vancouver's Chart, or in the Spanish Chart annexed to the narrative of the voyage of the "Sutil" and „Mexicana." The Chart of Vancouver, in which the soundings as above-mentioned are laid down, has been the guiding chart for all British vessels navigating the waters between the Continent and Vancouver's Island from 1798 until some time

after 1847, when a more accurate survey was made of the Strait of Fuca by Captain Kellett, and there is evidence preserved in the logs of vessels in the service of the Hudson's Bay Company prior to that year, that it was their invariable practice to use the Rosario Strait as the leading channel from Fuca's Strait into the upper waters now known as the Strait of Georgia. || Mr. Greenhow, in his "Memoir on the North-West Coast of North America" (New York, 1840), p. 139, says that "the observations of Vancouver form the basis of our best maps of the west coast of America from the 30th degree of latitude to the northern extremity of Cook's inlet, as also of those of the Sandwich Islands, which he surveyed with care. The maps contained in the atlas annexed to the journal of the voyage of the 'Sutil' and 'Mexicana' are nearly all copied from those of the British navigator."

Extent of Fuca's Strait.

It will have been observed by His Imperial Majesty that Her Majesty's Government, in speaking of Fuca's Strait, uses that expression to denote the inlet of the sea which extends from Cape Flattery to Whidbey Island, which lies off the American Continent. The utmost length of Fuca's Strait would thus extend over about 2° 5′ of longitude, equal in that latitude to about 80 miles (English), when it merges, at its south-east extremity, in Admiralty Inlet, and at its north-east extremity in Rosario Strait.

Navigation of Fuca's Strait.

The Rosario Strait and the Canal de Haro are both of them connected immediately with Fuca's Strait, so that it is possible for a vessel setting out from a port on either side of the Channel under the 49th parallel of north latitude, to pass by either of these intervening Channels into Fuca's Strait, and thence to the Pacific Ocean; with this difference, however, that *a vessel passing down the Rosario Strait* would enter Fuca's Strait at its eastern end, in about 122° 47′ west longitude, the proper and safe course for such a vessel being to the eastward of Davidson's Rock at the distance of about 1 mile south of Cape Colville, and *so would have to navigate the whole of Fuca's Strait* on its way to the Pacific Ocean; whereas *a vessel passing down the Canal de Haro* can keep a safe course between Discovery Island and the Middle Bank, and enter the Strait of Fuca in about 123° 10′ west longitude, and so *would only be obliged to navigate about two-thirds of Fuca's Strait* on its way to the Pacific Ocean. On the other hand, a vessel entering Fuca's Strait from the Pacific Ocean and *bound up the Rosario Strait* by night, after making the light upon Race Island, would have to make the light upon New Dungeness, which is about 70 miles from Cape Flattery, and then the light upon Smith or Blunt Island, which lies almost in the centre of the eastern end of Fuca's Strait, and about 6 miles from the entrance of the Rosario Strait. Having made Smith's Island, the vessel may pass safely either to the

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northward or the southward of it, according as the wind may allow. In the former case she would probably have to pass within 3 miles of Cape Colville before she can enter the Rosario Strait. On the other hand, if she is obliged to keep a course to the southward of Smith's Island, she would probably have to pass within 3 miles of Whidbey Island before she reaches the entrance of Rosario Strait. She might thus be obliged in one or the other case to navigate within *the three miles limit.* On the contrary, a vessel entering Fuca's Strait from the Ocean, and bound up the Canal de Haro, will not be under any necessity to pass within territorial waters on either side of the boundary line, in order to reach the entrance of the Canal.

Having thus, in the first place, brought under the consideration of His Imperial Majesty the physical features of the waters through which the boundary line is to be drawn pursuant to the provisions of the Treaty of the 15th June, 1846, Her Britannic Majesty's Government proposes, in the second place, to submit to the consideration of His Imperial Majesty certain rules of interpretation which, in the opinion of jurists of the highest authority, are applicable to the interpretation of Treaties, and which, in the opinion of Her Britannic Majesty's Government, may be properly invoked to elicit the true interpretation of the Treaty of the 15th June, 1846.

Rules for the Interpretation of Treaties.

There are certain admitted Rules to which Her Majesty's Government invites the attention of His Imperial Majesty, as proper to be observed in the interpretation of Treaties: —

1. *The words of a Treaty are to be taken to be used in the sense, in which they were commonly used at the time when the Treaty was entered into.*

In affirmation of this rule, Vattel (l. ii, chap. 17, sec. 271) writes: — "In the interpretation of Treaties, compacts, and promises, we ought not to deviate from the common use of language unless we have very strong reasons for it;" and in illustration of what he means by "the common use of language," he goes on to say, in section 272, "The usage we here speak of is that of the time when the Treaty or the Deed, of whatever kind, was drawn up and concluded. Languages incessantly vary, and the signification and force of words changes with time."

2. *In interpreting any expressions in a Treaty, regard must be had to the context and spirit of the whole Treaty.*

In affirmation of this rule, Vattel (ibid., sec. 285) writes as follows: — "It frequently happens that, with a view to conciseness, people express imperfectly, and with some degree of obscurity, things which they suppose to be sufficiently elucidated by the preceding matter, or which they intend to explain in the sequel; and, moreover, words and expressions have a different

force, sometimes even a quite different signification, according to the occasion, their connection and their relation to other words. | The connection and train of the discourse is, therefore, another source of interpretation. We must consider the whole discourse together, in order perfectly to conceive the sense of it, and to give to each expression not so much the signification which it may individually admit of, as that which it ought to have from the context and spirit of the discourse. Such is the maxim of the Roman law: 'Incivile est, nisi totâ lege perspectâ, unâ aliquâ particulâ ejus propositâ, judicare vel respondere.' (Digest. l. i, tit. iii, De Legibus, leg. 24.)"

3. *The interpretation should be drawn from the connection and relation of the different parts.*

Upon this rule, Vattel (ibid., sec. 286) writes as follows: —

"The very connection and relation of the things in question helps also to discover and establish the true sense of the Treaty or of any other piece. The interpretation ought to be made in such a manner that all the parts may appear consonant to each other — that what follows may agree with what preceded, unless it evidently appear that, by the subsequent clauses, the parties intended to make some alteration in the preceding ones. For it is to be presumed that the authors of a deed had an uniform and steady train of thinking — that they did not aim at inconsistencies and contradictions, but rather that they intended to explain one thing by another — and, in a word, that one and the same spirit reigns throughout the same production or the same Treaty."

4. *The interpretation should be suitable to the reason of the Treaty.*

In illustration of this rule, Vattel (ibid., sec. 287) writes: —

"The reason of the law or of the Treaty — that is to say, the motive which led to the making of it and the object in contemplation at the time — is the most certain clue to lead us to the discovery of its true meaning; and great attention should be paid to the circumstance whenever there is question either of explaining an obscure, ambiguous, indeterminate passage in a law or Treaty, or of applying it to a particular case. When once we certainly know the reason which alone has determined the will of the person speaking, we ought to interpret and apply his words in a manner suitable to that reason alone; otherwise he will be made to speak and act contrary to his intention, and in opposition to his own views. || Pursuant to this rule, a prince who on granting his daughter in marriage has promised to assist his intended son-in-law in all his wars is not bound to give him any assistance if the marriage does not take place. | But we ought to be very certain that we know the true and only reason of the law, the promise, or the Treaty. In matters of this nature it is not allowable to indulge in vain and uncertain conjectures, and to suppose reasons and views, where there are none certainly known. If the piece in question is in itself obscure — if, in order to discover its meaning, we have no other resource than the investigation of the

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author's views or the motives of the deed, we may then have recourse to conjecture, and, in default of absolute certainty, adopt as the true meaning that which has the greatest degree of probability on its side. But it is a dangerous abuse to go without necessity in search of motives and uncertain views in ordre to wrest, restrict, or extend the meaning of a deed, which is of itself sufficiently clear and carries no absurdity on the face of it. Such a procedure is a violation of that incontestable maxim, that it is not allowable to interpret what has no need of interpretation."

It may be observed, by the way, that the motive of the High Contracting Parties to the Treaty of 1846, and the object they had in view, are explicitly stated in the Preamble of the Treaty, so that it will not be necessary for His Imperial Majesty to travel out of the words of the Treaty itself, for the purpose of ascertaining the reason of it.

5. *Treaties are to be interpreted in a favourable rather than an odious sense.*

In illustration of this rule, Vattel (ibid., sec. 301) writes: —

"It will not be difficult to show in general what things are favourable, and what are odious. In the first place, everything that tends to the common advantage in Conventions, or that has a tendency to place the Contracting Parties on a footing of equality, is favourable. The voice of equity and the general rule of contracts require that the conditions between the parties should be equal. We are not to presume, without very strong reasons, that one of the Contracting Parties intended to favour the other to his own prejudice; but there is no danger in extending what is for the common advantage. If, therefore, it happens that the Contracting Parties have not made known their will with sufficient clearness, and with all the necessary precision, it is certainly more conformable to equity to seek for that will in the sense most favourable to equality and the common advantage, than to suppose it in the contrary sense. For the same reason everything that is not for the common advantage, everything that tends to destroy the equality of a contract, everything that onerates only one of the parties, or that onerates the one more than the other, is odious. In a Treaty of strict friendship, union, and alliance, everything which, without being burdensome to any of the parties, tends to the common advantage of the Confederacy, and to draw the bonds of union closer, is favourable. In unequal Treaties, and especially in unequal alliances, all the clauses of inequality, and principally those that onerate the inferior ally, are odious. Upon this principle that we ought, in cases of doubt, to extend what leads to equality and restrict what destroys it, is founded that well-known rule — 'Incommoda vitantis melior, quam commoda petentis, est causa.' (Quinctilian, Inst. Orat., l. vii, ch. iv.) The party who endeavours to avoid a loss has a better cause to support than he who aims at obtaining an advantage."

6. *Whatever interpretation tends to change the existing state of things*

at the time the Treaty was made is to be ranked in the class of odious things.

Vattel (ibid., sec. 305), in illustration of this rule observes, that "the proprietor cannot be deprived of his right, except so far precisely as he relinquishes it on his part; and in case of doubt the presumption is in favour of the possessor. It is less repugnant to equity to withhold from the owner a possession which he has lost through his own neglect, than to strip the just possessor of what lawfully belongs to him. In the interpretation, therefore, we ought rather to hazard the former inconvenience than the latter. Here also may be applied, in many cases, the rule above-mentioned (sec. 301), that the party who endeavours to avoid a loss has a better cause to support than he who aims at obtaining an advantage."

Her Britannic Majesty's Government will now proceed to submit to the consideration of His Imperial Majesty, in the third place, their views as to the proper application of the above rules to the interpretation of the Treaty of 15th June, 1846.

The First Rule of interpretation in its application to the Treaty of 1846.

In accordance with the first rule above mentioned, Her Majesty's Government submits to the consideration of His Imperial Majesty the following facts in support of the position that the narrow waters, now designated the Rosario Strait in British Charts, were the only channel between the Continent and Vancouver's Island *generally known and commonly used by sea-going vessels* at the time when the Treaty of 15th June, 1846, was made, and that the words "the Channel," in the signification which *common usage* affixed to them at that time, denoted those waters. || (1.) Vancouver's expedition, in 1792, after exploring the head-waters of Fuca's Strait, passed on to the northward, along the narrow waters which separate Lopez Island from what was then believed to be the Continent, and followed those waters in their course between Blakely Island and Cypress Island into Birch Bay, and thence passed onwards to Point Roberts and the upper waters of the ancient Gulf now called the Strait of Georgia. Soundings were made throughout the passage, which are stated in Vancouver's narrative, and are laid down in the chart annexed to it, sufficient to secure for future navigators a safe course from Fuca's Strait into the upper Gulf. Vancouver did not explore, nor does he give any soundings of the Canal de Haro. It is not mentioned in his narrative; the name of it, however, appears on the face of his Chart, distinguishing waters without soundings from the Channel through which Vancouver passed. || (2.) The Spanish exploring vessels "Sutil" and "Mexicana," in the same year, appear, from the narrative of the expedition, to have pursued a course to the southward of the San Juan Island until they reached the head-waters of

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Fuca's Strait. They then entered the same channel which Vancouver entered, and followed it as far as the Island of Guemes, when they passed onwards, along the Canal de Guemes, into Bellingham Bay ("El Seno de Gaston"). From Bellingham Bay they pursued a northerly course past Point Roberts into the upper waters of the ancient Gulf. || (3.) The Chart of Vancouver, which gives soundings only for navigating through the Rosario Channel, was the Chart in general use up to the end of 1846. || (4.) No Spanish chart of a date antecedent to the Treaty of 15th June, 1846, is known to Her Majesty's Government, in which soundings are given for navigating through the Canal de Haro. || (5.) Wen the "Beaver," the first steam-vessel used by the Hudson's Bay Company, passed up from Fuca's Strait to Fort Langley on the Frazer River in 1837, she made use of what is now known as the Rosario Channel. She explored the Canal de Haro for the first time in 1846. || (6.) When the United States' exploring vessel "Porpoise," under Lieutenant Ringgold, passed up to the northward, from Fuca's Strait into the upper Gulf in 1841, she made use of what is now known as the Rosario Channel. The boats, on the other hand, of her consort, the "Vincennes," which remained at New Dungeness, were dispatched to the Canal de Haro to make a survey of it. Lieutenant Wilkes, in his narrative (vol. iv, p. 515), states that they were so engaged for three days, by which time they "completed all that was essential to the navigation of it." || (7.) Her Majesty's steamer "Cormorant," the first of Her Majesty's steam-ships which navigated the waters between the Continent and Vancouver's Island, in September 1846 passed up the Rosario Channel to the northward, and returned to Fuca's Strait by the same channel. || (8.) The declarations of sea-capitains and other persons in the service of the Hudson's Bay Company are conclusive that the only channel, used and considered safe by them prior to 1846, was the Rosario Channel.

The Second and Third Rules of Interpretation.

It is conceived by Her Majesty's Government that the second and third rules for the interpretation of Treaties, already brought to the attention of His Imperial Majesty, as they are of a cognate character, may be conveniently considered together in their application to the question submitted to the arbitration of His Imperial Majesty. || These rules may be, then, briefly expressed: — || (*a.*) That *the context and spirit of a discourse is a source of interpretation*, where particular expressions are obscure from over-conciseness of statement. || (*b.*) The interpretation of any part of a discourse ought to be made in such a manner, that *all the parts may be consonant to one another.* || It may be observed then, in the first place, that the only expressions in the Treaty of 15th June, 1846, respecting which any disagreement has arisen between the High Contracting Parties, are to be found in the second paragraph of the Ist Article of it: "And thence southerly through the middle of the said Channel, and of Fuca's Strait, to the Pacific Ocean:" and that the

disagreement is limited to the words "the said Channel." It is considered, therefore, by Her Majesty's Government that, in order to arrive at the true interpretation of the above words, regard may properly be had, not merely to the context of the paragraph itself, but to the text of the preceding and following paragraphs of the Ist Article, which is the operative part of the Treaty as regards the settlement of the line of boundary. || The Ist Article, then, of the said Treaty is divided into three paragraphs: — 1. From the point in the 49th parallel of north latitude, where the boundary laid down in existing Treaties and Conventions between Great Britain and the United States terminates, the line of boundary between the territories of Her Britannic Majesty and the United States shall be continued westward along the said 49th parallel of north latitude to the middle of the Channel, which separates the Continent from Vancouver's Island. || 2. And thence southerly through the middle of the said Channel and of Fuca's Straits to the Pacific Ocean. || 3. Provided, however, that the navigation of the whole of the said Channel and Straits south of the 49th parallel of north latitude remain free and open to both parties. || Looking now to the text of the first paragraph of this Article in connection with the second paragraph, Her Majesty's Government submits to His Imperial Majesty that the second paragraph may be read as if it were written *in extenso* thus: "And thence southerly through the middle of the Channel which separates the continent from Vancouver's Island, and through the middle of Fuca's Straits to the Pacific Ocean," the channel and the straits being so connected in the second paragraph as to be governed by the preceding words, "through the middle of." || Now, the extent of the waters here designated as Fuca's Strait is not in controversy. It is true, indeed, that by some writers, amongst whom may be mentioned Mr. Robert Greenhow, the Librarian to the Department of State of the United States, and the author of a Memoir, Historical and Political, on the North-West Coast of North America, published in 1840 by direction of the Senate, the term "Fuca's Strait" has been used prior to the Treaty of 1846 to denote the whole of the channel through which it was supposed that the Greek pilot, Juan de Fuca, found a passage into the Polar Sea in the sixteenth century. Thus Mr. Greenhow, in his "History of Oregon" (p. 20), speaking of the three great groups of islands south of 54° 40′ north latitude, says, "The southernmost group embraces one large island, and an infinite number of smaller ones, extending from the 49th parallel to the 51st, and separated from the continent on the south and east by the channel called the Strait of Fuca." There is a slight inaccuracy, it may be observed, in this passage as regards the latitude of the group of islands; but Mr. Greenhow, in a previous passage of the same work (p. 22), has described the channel which he has in view with greater accuracy, as running eastward about 100 miles between the 48th and 49th parallels of latitude, and then turning to the north-west. || The view of Her Majesty's Government is, that the term

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"Fuca's Straits" is used in the Treaty of 1846 to signify the lower portion only of Mr. Greenhow's Channel, namely, the inlet of the sea which extends eastward from the Pacific Ocean to the entrance of the passage, through which Vancouver continued his voyage to the northward, and which he has laid down in his chart as a navigable channel, connecting Fuca's Strait with the upper waters of the ancient Gulf. ‖ In accordance with this signification of Fuca's Straits, Her Majesty's Government submits to His Imperial Majesty that the term "Fuca's Straits" must be taken to have been inserted in the second paragraph of the Ist Article of the Treaty of 1846, for the sake of describing with greater precision the course of the boundary line, that it should be drawn *through the middle of the inlet of the sea*, of which Cape Flattery may be regarded as the south-western extremity, and Deception Pass as the north-eastern extremity. ‖ Now a line may be properly said to be drawn through the middle of this inlet, if it be drawn in either of two ways, namely, if it be drawn lengthways, or if it be drawn breadthways. There can however be no doubt as to which of such alternative lines is required to satisfy the Treaty, as the line is to be drawn to the Pacific Ocean, and this can only be effected by *drawing the line through the middle of Fuca's Straits lengthways.* Upon this point in the case, Her Majesty's Government submits to His Imperial Majesty that there can be no reasonable doubt. ‖ Her Majesty's Government further submits to His Imperial Majesty that, in order that the second paragraph of the Ist Article of the Treaty of 1846 shall be consonant to the third paragraph, in other words in order to account for and give reasonable effect to the third paragraph, whereby the navigation of *the whole of Fuca's Straits* is secured to both the High Contracting Parties, the second paragraph must be interpreted as requiring the line to be drawn southerly *through the middle of a channel which will allow it to enter the head-waters of Fuca's Straits, and to be continued through the middle of the Straits in an uninterrupted line to the Pacific Ocean;* in other words the boundary line after it has entered Fuca's Straits must divide the waters of the Straits in such a manner, as to render the proviso necessary which is embodied in the third paragraph. ‖ For the purpose of bringing this part of the case more completely before the mind of His Imperial Majesty, Her Majesty's Government will recapitulate briefly the characteristics of Fuca's Straits, as they bear upon the question. ‖ The breadth, then, of Fuca's Straits, where they leave the Pacific Ocean between Cape Flattery on the Continent, their southern point, and Bonilla Point on Vancouver's Island, their northern point, is thirteen miles. Within these points they soon narrow to eleven miles, and carry this width on an east course for forty miles. They then take an east-north-east direction to the shore of Whidbey Island. Between Race Islands and the southern shore is the narrowest part of the Straits. Their least breadth, however, in this part is not less than eight miles, after which the Straits expand immediately to senventeen miles, a

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width which they maintain more or less in the part where the Canal de Haro enters them. On the other hand, it is difficult to define precisely the place where the waters of Fuca's Straits merge in those of the Rosario Strait; but Fuca's Straits gradually contract as they approach the entrance of the Rosario Strait, which is only five miles wide. A provision which thus secures to the vessels of either nation the right of free navigation on either side of the boundary line *throughout the whole of the Channel and Fuca's Straits* would be perfectly intelligible, and, in fact, would be a requisite precaution, if the line is to pass through Rosario Strait, dividing the head waters of Fuca's Straits; but it would not be in any such sense a *necessary precaution*, if the line of boundary is to be drawn through the Canal de Haro. || On the former supposition it would be reasonable to secure to either party the free navigation of the whole of Fuca's Straits equally as of the Rosario Channel, inasmuch as the *medium filum aquae* in the uppermost part of Fuca's Straits would been within the "three miles limit" of either shore; on the other hand, the part of Fuca's Straits, where the Canal de Haro strikes them, are of so great a breath that there would be an ample margin of common navigable water for vessels on either side of the *medium filum aquae*, and no necessity for vessels passing to and from the Pacific Ocean *to navigate within the jurisdictional waters* of either of the High Contracting Parties. || If it should be said on behalf of the United States' Government that the proviso in the third paragraph of the Ist Article of the Treaty of 1846 was not inserted by way of *precaution*, but rather by way of *comity*, to preserve to both the High Contracting Parties a liberty of navigation hitherto enjoyed by them in common, Her Majesty's Government submits that considerations of *comity* would equally have required the extension of the proviso to the waters of the Channel, which separates the continent from Vancouver's Island *north of the forty-ninth parallel of north latitude*, as both parties had heretofore enjoyed in common the free navigation of those waters; but no such precaution has been taken in the Treaty to limit the exercise of exclusive sovereignty north of the forty-ninth parallel. || Again, it would have been an unreasonable thing to have provided by the Treaty that both parties should retain the free enjoyment of the navigation of *the whole of Fuca's Straits*, unless the Treaty is to be interpreted as requiring the boundary line to be drawn through the middle of those Straits, and continued through the Rosario Channel, in which case the free navigation of the whole of Fuca's Straits to the eastward of the Canal de Haro would be at times a condition essentially necessary to enable British or American vessels, as the case may be, to enter or leave the channel connecting Fuca's Straits with the waters of the upper Gulf. To contend, indeed, that this provision of the Treaty would be consonant to an interpretation of the Treaty, which would continue the boundary line through the Canal de Haro, is to deprive the proviso of any rational meaning, as American vessels would possess the right of navigating the Straits to the

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eastward of the Canal de Haro without any such proviso, and British vessels would not require any such liberty to enable them to enter or leave the Channel through which the boundary line is to pass from Fuca's Straits into the waters of the upper Gulf.

The Fourth Rule of Interpretation.

The fourth of the rules to which Her Britannic Majesty's Government has invited the attention of His Imperial Majesty is, that *the interpretation should be suitable to the reason of the Treaty,* that is to say, the motive which led to the making of it, and the object in contemplation at the time. || "We ought," says Vattel (section 287), "to be very certain that we know the true and only reason of the law, or the Treaty. In matters of this nature it is not allowable to indulge in vague and uncertain conjectures, and to suppose reasons and views where there are none certainly known. If the piece in question is in itself obscure; if, in order to discover its meaning we have no other resource than the investigation of the author's views or the motives of the deed, we may then have recourse to conjecture, and in default of absolute certainty adopt, as the true meaning, that which has the greatest degree of probability on its side. But it is a dangerous abuse to go without in search of motives and uncertain views in order to wrest, restrict, or extend the meaning of the deed, which is of itself sufficiently clear, and carries no absurdity on the face of it." || Now the motive of the Treaty, as recited in the Preamble of it, was to terminate a state of doubt and uncertainty, which had hitherto prevailed respecting the sovereignty and government of the territory on the north-west coast of America, lying westward of the Rocky Mountains, by an amicable compromise of the rights mutually asserted by the two parties over the said territory. || It is a reasonable presumtion from this Preamble, that Her Britannic Majesty's Government, which drew up the paragraph of the Treaty of 1846, the meaning of which is in controversy, *had a definite boundary line in view,* which would terminate all doubt and uncertainty as to the limits, within which the respective Parties to the Treaty were henceforth to exercise rights of sovereignty. || The Treaty of 1846, it should also be borne in mind, was not an ordinary Treaty of friendship or alliance, in which a paragraph respecting mutual boundaries was inserted amongst paragraphs relevant to other matters; but it was a Treaty, of which *the primary object was the settlement of a boundary line,* and it would be unreasonable to attach a vague and uncertain meaning to any words descriptive of the boundary line, if such words are susceptible of a *definite and certain meaning.* || It is not too much to say, and it will probably not be disputed — for it has been so stated by one of the most eminent of American statesmen — that the great aim of the United States in 1846 was to establish the 49th parallel of north latitude as the line of boundary on the western side of the Rocky Mountains, "*not to be departed*

from for any line further south on the Continent;" and that with regard to straits, sounds, and islands in the neighbouring seas, they were subjects of minor importance, to be dealt with in a spirit or fairness and equity. (Speech of Mr. Webster before the Senate of the United States, March 30, 1846.) On the other hand, it is notorious, and it is also patent on the face of the Treaty itself, that the great aim of Her Britannic Majesty's Government was to meet the views of the United States' Government in regard to the 49th parallel of north latitude with *as little sacrifice as possible of the rights heretofore enjoyed by the Hudson's Bay Company and other British subjects in the waters south of that parallel.* || Now it is a remarkable feature of the Treaty that *no name is given to the Channel,* to the middle of which the 49th parallel of north latitude was to be continued after leaving the Continent, and through the middle of which it was to be drawn southerly after being deflected from that parallel. The channel is described "the Channel separating the Continent from Vancouver's Island", and the line is simply directed to be drawn "southerly through the middle of the said Channel and of Fuca's Straits". The presumption arising from this description of it is that *the Channel intended by the Treaty was the only Channel then used by sea-going vessels, and that it had no distinguishing name,* but that upon the face of the charts then in use, it would readily answer the description given of it in the Treaty, and would admit of the boundary line being deflected and continued through the middle of it and of Fuca's Straits to the Pacific Ocean. | It will be seen by His Imperial Majesty, on an examination of Vancouver's Chart, which was the most accurate chart known to Her Britannic Majesty's Government at the time when the Treaty was made, and which was the Chart under the consideration of Her Britannic Majesty's Government when they framed the Ist Article of the Treaty, that the name of the Gulf of Georgia is assigned in that Chart *to the whole of the interior sea,* which separates the Continent from the group of islands, the chief of which is called Quadra and Vancouver's Island, such being the name of the largest island at the time when the chart was constructed, and that *no distinguishing name* is assigned either to the *channel* up which Vancouver sailed to the northward, or to the portion of the Gulf in the 49th parallel of north latitude. Her Majesty's Government accordingly contends — (1) that the boundary line, which is directed by the Treaty to be continued westward along the 49th parallel of north latitude to the middle of a channel without any distinguishing name, and thence southerly through the middle of the said channel and of Fuca's Straits, is intended by the words of the Treaty to be drawn through the middle of a channel which had, at that time, no distinguishing name; and (2) that, as the channel now called the Rosario Strait is found in the charts of the period (1846) without any distinguishing name assigned to it, and in other respects corresponding with the requirements of the Treaty, such channel ought to be preferred to the Canal de Haro, which bore a

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distinguishing name at that period. || Her Britannic Majesty's Government contends, on this part of the case, that to draw the line through the middle of the waters distinguished in Vancouver's Chart from the Channel, through which he sailed, by the name of the "Canal de Arro", and which waters are represented in that chart as unsurveyed, would be to continue the line not through "the said Channel" — that is, a Channel without any distinguishing name — but through a channel which, at the time the Treaty was made, was distinguished by name from the channel surveyed by Vancouver. No reason can well be assigned, if such a channel was contemplated by both parties, why it should not have been designated by its distinguishing name to prevent all uncertainty. || But it may be said, that there is evidence that the Canal de Haro was contemplated by the United States' Government, and that they had charts in their possession, which satisfied them that it was a navigable and safe channel, equally as the channel along which Vancouver sailed. The reply to such an argument is not far to seek. If it can be established that one of the parties to the Treaty had knowledge only of one navigable Channel corresponding to the provisions of the Treaty, the fact that the other party was aware of another navigable Channel could never justify such an interpretation being given to the Treaty, as should bind the former to accept the Treaty in a sense of which it did not know it to be capable, when the Treaty may be interpreted in a sense in which both parties were aware that it was capable of being interpreted. *The reason of the thing* is against such an interpretation, as has been proposed to be given to the Treaty on the part of the United States' Government. | There is a further reason, why the Canal de Haro does not satisfy the language of the Treaty. | The commencement of the boundary line, which is to be drawn southerly, is described in the Treaty as being in a Channel under the 49th parallel of north latitude; but a glance at the chart will satisfy His Imperial Majesty that the Canal de Haro cannot, in any proper sense of the words, be held to commence under that parallel. It has a distinct commencement between Saturna Island and Patos Island, under a lower parallel. *It has, therefore, not only a distinguishing name, but it has its physical characteristics which distinguish it* from the channel described in the Treaty of 1846 as identical with the channel under the 49th parallel of north latitude.

The Fifth Rule of Interpretation.

The fifth rule of interpretation, to which Her Britannic Majesty's Government has invited the attention of His Imperial Majesty is, that *Treaties are to be interpreted in a favourable rather than in an odious sense.* || "We are not to presume," says Vattel (sec. 30), "without any strong reasons that one of the Contracting Parties intended to favour the other to his own prejudice, but there is no danger in extending what is for the common advantage. If, therefore, it happens that the Contracting Parties have not made known their

will with sufficient clearness and with all the necessary precision, it is certainly more conformable to equity to seek for that will in the sense most favourable to equality and the common advantage." || Now, it may be stated by Her Majesty's Government without fear of contradiction, that, at the time when the Treaty of 1846 was signed at Washington, no charts were in use by those, who navigated the interior sea between the Continent and Vancouver's Island, but Vancouver's Chart, and possibly a Spanish Chart purporting to be constructed in 1795 upon the surveys made by the "Sutil" and "Mexicana". Of the latter chart, indeed, Her Britannic Majesty's Government had no certain knowledge in 1846, for the only Spanish chart of those waters, which is to be found in the archives of the British Admiralty at Whitehall, did not come into its possession until 1849. In neither, however, of those Charts are there any soundings of a navigable passage through the Canal de Haro. It is true, indeed, that in the Spanish Chart some soundings are given of Cordova Channel, in which the boats of the "Sutil" and "Mexicana" appear to have crept close along the shore; but there are no soundings to guide a vessel out of the Canal de Haro into any part of the upper waters, which are south of 49° parallel of north latitude. An interpretation, therefore, of the Treaty, which would declare the Canal de Haro to be the channel, down which the boundary line is to be carried, would be to declare that Her Britannic Majesty's Government when it concluded the Treaty of 1846 *intended to favour the United States' Government to its own prejudice*, for it would be to declare that Her Britannic Majesty's Government intended *to abandon the use of the only channel leading to its own possessions*, which it knew to be navigable and safe, and to confine itself to the use of a channel respecting which it had no assurance that it was even navigable in its upper waters for sea-going vessels, nay, respecting which it is not too much to say, that Her Britannic Majesty's Government *had a firm belief that it was a dangerous strait*. On the other hand, an interpretation which would declare Vancouver's Channel, now distinguished by the name of the Rosario Strait, to be the common boundary, will give to both Parties the use of a Channel, which was known to both Parties at the time when the Treaty was made to be a navigable and safe channel. The two Parties in respect of such an interpretation would be placed in a position of equality.

The Sixth Rule of Interpretation.

The sixth Rule of Interpretation, which is a corollary to the next preceding Rule, and which is also submitted to the attention of His Imperial Majesty, is that, *in case of doubt, the presumption is in favour of the possessor of a thing;* in other words, the party who endeavours to avoid a loss has a better cause to support, than he who aims at obtaining an advantage. || It has been already said that the Channel in use in 1846, and the only Channel

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in use by British vessels navigating from the Straits of Fuca to the stations of the Hudson's Bay Company on Frazer's River and elsewhere north of the 49th parallel of north latitude, was the channel surveyed by Vancouver, and of which soundings are given in his Chart. || The Government of the United States contends for an interpretation of the Treaty, *which will dispossess British vessels of the use of this channel.* There is no evidence on the other hand that the Canal de Haro was used by vessels of the United States prior to the Treaty of 1846. || Her Britannic Majesty's Government, on the other hand, is not contending for an interpretation of the Treaty, which will deprive the citizens of the United States of any right habitually exercised by them prior to the Treaty. If, indeed, the United States' Government had knowledge from unpublished surveys or otherwise, prior to the Treaty of 1846, that the Canal de Haro was a navigable and safe channel, it cannot be denied that citizens of the United States, if they used any channel at all prior to 1846, made use of the channel now called the Rosario Strait. It is submitted accordingly to His Imperial Majesty, that an interpretation of the Treaty, which declares the Rosario Strait to be the channel, through the middle of which the boundary line is to be drawn, will continue to American citizens the full enjoyment of such rights of navigation as were exercised by them prior to the Treaty, whilst a declaration in favour of the claim of the United States will strip British subjects of corresponding rights. *Wherever there is doubtful right*, it is less *repugnant to equity to withhold from a claimant the enjoyment of a thing, which he has never possessed, than to strip the possessor of a thing, of which he has habitually had the enjoyment.* || The question whether any third channel, other than the Rosario Strait or the Canal de Haro, would satisfy the requirement of the Treaty of 1846 has not been touched upon by Her Britannic Majesty's Government for these reasons — amongst others, that the existence of any intermediate navigable channel was unknown to both the Contracting Parties at the time when the Treaty of 1846 was signed, and the Government of the United States has never contended for any such channel. Besides, Her Britannic Majesty's Government presumes that the true interpretation of the Treaty of 1846 is to be sought *rebus sic stantibus*, that is, upon the state of facts known to both parties at the time when the Treaty of 1846 was concluded.

On the above considerations of fact and of public law, Her Britannic Majesty's Government submits to His Imperial Majesty that the claim of Her Britannic Majesty's Government that the portion of the boundary line which, under the terms of the Treaty of 15th June, 1846, runs southerly through the middle of the Channel which separates the Continent from Vancouver's Island, should be run through the Rosario Strait, is valid, and ought to be preferred to the claim of the Government of the United States, that it should be run through the Canal de Haro.

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Recapitulation of Facts.

The considerations of fact may be briefly recapitulated: — ‖ 1. That the Channel, now designated as the Rosario Strait in British charts, which designation embraced the Channel to the north as well as the south of the 49th parallel of north latitude in Spanish charts, was the only Channel between the Continent and Vancouver's Island generally known and commonly used by sea-going vessels at the time when the Treaty of 15th June, 1846, was made, and that the words "The Channel", in the signification which *common usage* affixed to them at that time, denoted those waters. ‖ 2. That the context of the first and second paragraphs of Article I of the Treaty of 15th June, 1846, requires that the boundary line should be continued through the middle of a Channel *so as to enter the head-waters of Fuca's Straits*, which is practicable, if the line should be run through the Rosario Strait, but is impracticable, if it should be run through the Canal de Haro. ‖ 3. That the proviso in the third paragraph of Article I, which secures to either Party the free navigation of *the whole of Fuca's Straits*, is intelligible, as a necessary precaution, if the boundary line is to be run through the Rosario Strait, but is unnecessary and unreasonable, if the boundary line is to be run through the Canal de Haro. ‖ 4. That a boundary line run through the middle of the Channel, now called the Rosario Strait, satisfies the great aim, which either party had in view prior to the conclusion of the Treaty of the 15th June, 1846; and as that Channel had no distinguishing name at the time when the Treaty was made, *it could not be otherwise described than as it is described in the Treaty.* On the other hand the Canal de Haro had a distinguishing name, and there was no reason, if the Canal de Haro was contemplated by both the High Contracting Parties at the time when the Treaty was made, why it should not have been described by its distinguishing name to prevent all uncertainty. ‖ 5. That a line of boundary run through the middle of the Rosario Strait, in accordance with the knowledge, which both the High Contracting Parties possessed at the time when the Treaty of 15th June, 1846, was made, would have been favourable to both Parties, whereas a line of boundary run through the Canal de Haro *would have deprived Her Britannic Majesty of a right of access to her own possessions* through the only then known navigable and safe channel. ‖ 6. That it is more in accordance with equity that His Imperial Majesty should pronounce in favour of the claim of Her Britannic Majesty's Government, than in favour of the claim of the Government of the United States, as a decision of His Imperial Majesty declaring the Rosario Strait to be the Channel through which the boundary line is to be run, will continue to citizens of the United States the free use of the only Channel navigated by their vessels prior to the Treaty of 15th June, 1846; whilst a declaration of His Imperial Majesty in favour of the claim of the Government of the United States *will deprive British*

Nr. 5035. Grossbritannien. Dec. 1871. *subjects of rights of navigation, of which they have had the habitual enjoyment* from the time when the Rosario Strait was first explored and surveyed by Vancouver.

The evidence, which Her Britannic Majesty's Government has thought it proper to offer to the consideration of His Imperial Majesty in support of the present case, has, for the convenience of His Imperial Majesty, been collected in an Appendix, which is annexed thereto.[1])

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VEREINIGTE STAATEN von AMERIKA. — Memorial on the Canal de Haro as the boundary line of the United States of America. By the American Plenipotentiary, George Bancroft.

Nr. 5036. Ver. Staaten. 12. Dec. 1871. The Treaty of which the interpretation is referred to Your Majesty's arbitrament was ratified more than a quarter of a century ago. Of the sixteen members of the British Cabinet which framed and presented it for the acceptance of the United States, Sir Robert Peel, Lord Aberdeen, and all the rest but one, are no more. The British Minister at Washington who signed it is dead; of American statesmen concerned in it, the Minister at London, the President and Vice-President, the Secretary of State, and every one of the President's constitutional advisers, except one, have passed away. I alone remain, and, after finishing the threescore years and ten that are the days of our years, am selected by my country to uphold its rights. || Six times the United States had received the offer of arbitration on their North-Western Boundary, and six times had refused to refer a point where the importance was so great, and the right so clear; but when consent was obtained to bring the question before Your Majesty, my country resolved to change its policy, and in the heart of Europe, before a tribunal from which no judgment but a just one can emanate, to explain the solid foundation of our demand, and the principles of moderation and justice by which we have been governed. || The case involves questions of geography, of history, and of international law; and we are glad that the discussion should be held in the midst of a nation whose sons have been trained in those sciences by a Carl Ritter, a Ranke, and a Heffter. || The long-continued controversy has tended to estrange from each other two of the greatest powers in the world, and even menaced, though remotely, a conflict in arms. A want of confidence in the disposition of the British Government has been sinking into the mind of the States of the Union now rising on the Pacific, and might grow into a popular conviction,

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[1]) Ausser diesem Appendix sind der britischen Denkschrift 5 Karten beigegeben.

not easy to be eradicated. After having secured union and tranquillity to the people of Germany, and attained a happiness never before allotted by Providence to German warrior or statesman, will it not be to Your Majesty a crowning glory now, in the fulness of years, and in the quiet which follows the mighty struggles of a most eventful life, to reconcile the two younger branches of the great Germanic family.

The Point for Arbitration.

The point submitted for arbitration is limited with exactness. By Article I of the Treaty concluded at Washington on the 15th of June, 1846, between the United States and Her Britannic Majesty, it was stipplated that the line of boundary between the territories of the United States and those of Her Britannic Majesty, from the point on the 49th parallel of north latitude up to which it had already been ascertained, should be continued westward along the said parallel of north latitude "to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly, through the middle of the said channel and of Fuca's Straits, to the Pacific Ocean." The British Government claim that the water-line here referred to should run through a passage which they have thought proper to name the Straits of Rosario, and which the United States, for the purpose of this reference, permit to go by that name. The United States claim that the water-line runs through the Canal de Haro. The Arbitrator is to say finally, and without appeal, which of those claims is *most in accordance* with the true interpretation of the Treaty of June 15, 1846. That is the point submitted, and that alone; nothing more and nothing less. || If the United States can but prove their claim to be most in accordance with the true interpretation of the Treaty, it is agreed that the award shall be in their favour; how much more then, if they prove that their interpretation is the only one which the Treaty admits!

How this Discussion will be conducted.

In conducting this discussion I shall keep in mind that the restoration of friendship between the two Powers which are at variance is the object of the arbitration. Nothing that has been written since the ratifications of the Treaty were exchanged, can alter its words, or affect its interpretation. I shall, therefore, for the present at least, decline to examine all communications that may have taken place since that epoch, except so far as is necessary to explain why there is an arbitration, and shall thus gain the advantage of treating the subject as simply an investigation for the ascertainment of truth. || Since the intention of the negotiators must rest on the knowledge in their possession at the time when the Treaty was made, I shall use the charts and explorations which have advanced, or profess to have advanced, our knowledge of

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the country in question, and which are anterior to that date. Of such charts I have found six, and six only; and though they are of very unequal value, yet for the sake of impartiality and completeness I present photographic copies or extracts of every one of them. Of charts of explorations of a later date, it was my desire to make no use whatever; but then, as will appear in the sequel, there would be not one map on which the channel claimed by the British Government would be found with the name of "the Straits of Rosario;" I am therefore compelled to add a later chart, on which the name is placed, as required for the arbitration. This chart also shows the lenght and breadth and depth of the respective channels. ‖ My task is an easy one; for I have only to deduce the intentions of the negotiators of the Treaty from its history, and to interpret its words according to the acknowledged principles of international law.

Parallels of Latitude the Customary Boundaries of English Colonies in North America.

A parallel of latitude, extending from the Atlantic to the Pacific, was an usual boundary established by England for its Colonies in North America. The Charter granted in 1620 by James I to the Company of Plymouth for New England, bounded its territory by the parallels of 48° and of 40° north latitude "in length and breadth throughout the mainland from sea to sea." The Charter granted by Charles I to Massachusetts in 1628 had in like manner for its northern and southern boundaries parallels of latitude running from sea to sea. So, too, had the old Patent of Connecticut: so, too, had the Charter to Connecticut, granted by Charles II in 1662. The Charter granted in 1663 by Charles II to the Lords Proprietors of Carolina adopted as their northern boundary the parallel of 36°, and as their southern boundary the parallel of "31° of northern latitude, and so west in a direct line as far as the South seas." The precedent was followed by George II in the charter granted in 1732 for Georgia; and in 1761 George III officially described that colony as extending by parallels of latitude "westward in direct lines" to the Pacific.

The same Rule continued in the Treaty of the Peace of 1782.

In the first Convention between the United States of America and Great Britain, signed at Paris on the 30th of November, 1782, the Northern Boundary Line of the United States was carried by the two Powers through the great Upper lakes to the most north-western point of the Lake of the Woods. If from that point the line was to be continued, the Treaty, adopting the precedent of the past century of colonization and foreshadowing the rule of the future, prescribed "a due west course".

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The same Rule applied to the Boundary of Louisiana.

By the Treaty of April 30, 1803, between the United States of America and the French Republic, the United States came into possession "for ever and in full sovereignty" of the colony and territory of Louisiana. || No sooner had the United States made this acquisition, than they sent out an exploring expedition, which made known to the world the Rocky Mountains and the branches of the river of Oregon, the mouth of which an American navigator had been the first to enter. || By the acquisition of Louisiana the Republic of America and Great Britain, as Sovereign over the territory of Hudson's Bay, became neighbours still further to the west; and the two Powers took an early opportunity to consider their dividing line, west of the Lake of the Woods. The United States might have demanded, perhaps should have demanded, under the Treaty of 1782, that the line "due west" should proceed from "the most north-west point of the Lake of the Woods". That point is near the parallel of 50°; the United States consented to the parallel of 49°. But with regard to the continuation of the line, while Mr. Madison, the American Secretary of State, was desirous not to advance claims that could be "offensive to Spain", both parties adopting the words of the Treaty of 1782, agreed as between themselves that the line should proceed on that parallel "in a due west course" to the Rocky Mountains. In 1807 this agreement would have been ratified; but the maritime decrees of the Emperor Napoleon, dated at Berlin and at Milan, disturbed the peace of the oceans; and Orders in Council of Great Britain, which finally provoked war with the United States, interposed delay. || When in 1815 the terms of peace were to be adjusted, the American Plenipotentiaries were instructed by their Government as to the north-western boundary, to consent to no claim on the part of Great Britain to territory in that quarter south of the 49th parallel of latitude; and they implicitly adhered to their instructions. || In due time the negotiations, which had effected an agreement in 1807, were renewed; and on the 20th of October, 1818, the parallel of 49° was adopted as the boundary line between the two countries as far as the Stony, or as we now more commonly call them, the Rocky Mountains. From that range of mountains to the Pacific, America, partly from respect to the claims of Spain, was willing to delay for ten years the continuance of the boundary line.

The United States acquire the Claims of Spain north of 42°.

The ocean chivalry of Spain were the first to explore the northern coast of the Pacific. Hernando Cortes began the work. The Straits of Fuca take their name from a Greek navigator who was in the Spanish service in 1592. Perez, a Spaniard, whose explorations extended as far to the north as 54°, discovered Nootka Sound in 1774. In the next year Bodega y Quadra

Nr. 5036. Ver. Staaten. 12. Dec. 1871. reached the 58th degree, and Heceta, on the 15th of August, 1775, returning from Nootka, noticed, though he did not enter, the mouth of the River Oregon. In 1789, 1790, 1791, before a British keel had entered the Straits of Fuca, a succession of Spanish navigators, Martinez, and de Haro, Eliza, Fidalgo, Quimper, and others, had explored and draughted charts of the island which is now called Vancouver, and the waters which lie to the east of it. Wen Vancouver, on the 29th of April, 1792, passed through the Straits of Fuca and entered those waters, he encountered to his mortification Spanish navigators who had already explored them, and who produced before him a chart of that region, made by Spanish officers the year before. ‖ By the Treaty of Spain with the United States, of the 22nd of February, 1819, "His Catholic Majesty ceded to the United States all his rights, claims, and pretensions to any territories north of the parallel of latitude 42⁰, from the Arkansas River to the Pacific." ‖ Thus did the custom of boundaries by a parallel of latitude receive a new confirmation; and thus did the United States become sole heir to all the pretensions and rights which Spain had acquired in North America, north of the parallel of 42⁰, and beyond that of 49⁰.

Mr. Huskisson objects to the Division of Vancouver's Island.

When the ten years' limitation of the Treaty of 1818 drew near, Mr. Canning, Secretary of State for Foreign Affairs in Great Britain, on the 20th of April, 1826, invited the American Government to resume negotiations (attempted in vain in 1824) for settling the boundary upon the north-west coast of America. ‖ At that time John Quincy Adams was President of the United States, with Henry Clay for Secretary of State, and the negotiation on the American side was conducted in London by Albert Gallatin. Reinforced as were the United States of America by the titles of both France and Spain in addition to their own claims from contiguity and discovery, they remained true to their principle of moderation, and again it was resolved not to insist on the territory to the north of 49⁰ which Spain had ceded; and on the 19th of June, 1826, "in the spirit of concession and compromise, which he hoped Great Britain would recognize and reciprocate," Mr. Clay authorized Mr. Gallatin to propose "the extension of the line on the parallel of 49⁰ from the Stony Mountains to the Pacific Ocean". "This", he wrote "is our ultimatum, and you may so announce it. We can consent to no line more favourable to Great Britain." In the following August Mr. Clay repeated to Mr. Gallatin: "The President cannot consent that the boundary on the north-west coast shall be south of 49⁰." ‖ On the 22nd of November, 1826, Mr. Huskisson, one of the British Plenipotentiaries, remarked on the straight line proposed by the United States, that its cutting off the lower part of Vancouver's Island was quite inadmissible. Here is the first intimation of the boundary line of 49⁰ to the Pacific, with just so much deflection as

to leave the southern extremity of Vancouver's Island to Great Britain. || To this Mr. Gallatin, nine days later, replied that, "to the 49th parallel the United States would adhere as a basis." Yet as it seemed to cut Vancouver's Island in an inconvenient manner, he had in view the exchange of that southern extremity for an equivalent north of 49° on the mainland. Here is the first intimation of the possibility, on the part of the United States, to vary from the line of 49°, but only so far as to yield to Great Britain the southern extremity of Vancouver's Island, in return for a full equivalent. | But the interest of the Hudson's Bay Company was better subserved by leaving the whole region open to the fur trade, and the United States, on their part, had no motive for hastening an adjustment. The American Envoy, therefore, in 1827, consented to prolong the Treaty of 1818, yet with the proviso that either party might abrogate it, on giving notice of twelve months to the other Contracting Party. Under this Convention the question of jurisdiction and boundary remained in abeyance for nearly sixteen years.

Lord Aberdeen and Mr. Everett discuss the North Western Boundary.

In October 1842, the British Foreign Secretary, the Earl of Aberdeen who through the agency of Lord Ashburton had just settled out north-eastern boundary from the Lake of the Woods to the Atlantic, expressed to Mr. Everett, then American Minister at London, a strong wish that he might receive instructions to settle the boundary between the two countries on the Pacific Ocean. | American emigrants had already begun to find their way on foot across the continent. In 1843 1000 emigrants, armed men, women, and children, with waggons and cattle, having assembled on the western frontier of Missouri, marched across the plains and through the mountain passes to the fertile valley of the Willamette in Oregon. The ability of America to inforce its rights by occupation grew with every year. But its increasing power did not change its policy of moderation, and, to meet the wish of Lord Aberdeen, on the 9th of October, 1843, the Government of the United States sent to Mr. Everett the necessary powers with this instruction: "The offer of the 49th parallel may be again tendered, with the right of navigating the Columbia on equal terms." || On the 29th of November, 1843, soon after Mr. Everett's full powers had arrived, he and Lord Aberdeen had a very long and important conversation on the Oregon Question; and the concessions of Lord Aberdeen appearing to invite an expression of the extremest modification which the United States could admit to their former proposal, Mr. Everett reports that he said: "I thought the President might be induced so far to depart from the 49th parallel as to leave the whole of Quadra and Vancouver's Island to England, whereas that line of latitude would give us the southern extremity of that island, and consequently the command of the Straits of Fuca on both sides. I then *pointed out on a map the extent of*

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this concession; and Lord Aberdeen said he would take it into consideration." || The next day Mr. Everett more formally referred to the subject in a note to the British Secretary: —

"My dear Lord Aberdeen, "46, Grosvenor Place, November 30, 1843.

* * * "It appears from Mr. Gallatin's correspondence that * * * Mr. Huskisson had especially objected to the extension of the 49° to the Pacific, on the ground that it would cut off the southern extremity of Quadra and Vancouver's Island. My suggestion yesterday would obviate this objection. * * * *A glance at the map shows its importance as a modification of the 49th degree.* * * * "Edward Everett."

On the 2nd of February and on the 1st of April, 1844, Mr. Everett reports that he continuously insisted with Lord Aberdeen that the only modification which the United States could, in his opinion, be brought to agree to, was that they should waive their claim to the southern extremity of Vancouver's Island, and that Lord Aberdeen uniformly answered "he did not think there would be much difficulty in settling the question." || During the following months Mr. Everett and Lord Aberdeen, both wishing sincerely to settle the controversy, had further frequent conversations, and, as the result of them all, Mr. Everett reported that England would not accept the naked parallel of 49° to the ocean, but would consent to the line of the 49th degree, provided it could be so modified as to leave to Great Britain the southern extremity of Vancouver's Island. "I have spared no pains," wrote Mr. Everett on the 28th of February, 1845, "to impress upon Lord Aberdeen's mind the persuasion that the utmost which the United States can concede is the 49th parallel with the modification suggested, taking always care to add that I had no authority for saying that even that modification would be agreed to." | To one fact I particularly invoke the attention of the Imperial Arbitrator: not the least room for doubt was left by Mr. Everett with regard to the extent of the modification proposed. *He had pointed it out to Lord Aberdeen on the map*, and had so often and so carefully directed his attention to it, that there could be no misapprehension on the limit of the proposed concession. Mr. Everett retired from office in the full persuasion that the north-western boundary would be settled, whenever the United States would consent so far to depart from the parallel of 49° as to leave the whole of Vancouver's Island to Great Britain.

The Pamphlet of Mr. Sturgis.

The subject attracted public attention. On the 22nd of January, 1845, Mr. William Sturgis, a distinguished citizen of the United States, who had passed several years on the north-west coast of America, delivered in Boston a lecture on what was now generally called the Oregon Question, in which, hitting exactly the idea of Mr. Everett, he proposed as the boundary: "a

continuation of the parallel of 49° across the Rocky Mountains to tide-water, say to the middle of the Gulf of Georgia; thence by the northernmost navigable passage (not north of 49°) to the Straits of Juan de Fuca, and down the middle of these straits to the Pacific Ocean; the navigation of the Gulf of Georgia and the Straits of Fuca to be for ever free to both parties; all the islands and other territory lying south and east of this line to belong to the United States, and all north and west to Great Britain. By this arrangement we should yield to Great Britain the portion of Quadra and Vancouver's Island that lies south of latitude 49°. * * Will Great Britain accede to this? I think she will." || The pamphlet of Mr. Sturgis, accompanied by a map on which the proposed boundary is marked, was read by Lord Ashburton and by Lord Aberdeen. To one who eminently enjoyed the confidence of both Governments Lord Aberdeen pronounced it "a clear and sensible view of the matter." Lord Ashburton, whose opinion on the subject carried the greatest weight, wrote to Mr. Sturgis: "Your treatise enables me every day to answer satisfactorily the question put to me so often, where is the Oregon, and what is this dispute about? You have stated the case distinctly in a few pages, and what is indeed uncommon, with great impartiality."

Mr. Buchanan negociates with Mr. Pakenham.

Meantime the negociation on the Oregon Question had been transferred to the new British Minister at Washington. Offers of arbitration had been rejected; emigration across the plains gave promise of founding states on the Pacific; and the Congress of the United States teemed with propositions to prepare for establishing a territorial Government in Oregon. When the administration of Mr. Polk entered upon office, all parties in America were unanimous in insisting on a boundary at the least as favourable as the parallel of 40°; while a very large number, and seemingly the largest number, thought the time had come for America, as the heir of Spain, to carry its claims beyond the parallel of 49°. But the new administration would not swerve from the moderation which had marked the policy of the country. || Meantime both parties had received more accurate information on the geography of that district. In July 1841, Captain Wilkes had made a survey of the waters south of 49°, especially of the Channel of Haro; and in the early part of 1845 his narrative and accompanying map had been published both in America and England. Believing now that Great Britain would accept the line of 49°, with the small modification for the southern end of Vancouver's Island, the American Administration, on the 12th of July, 1845, made to the British Minister at Washington the proposal, "that the Oregon territory shall be divided between the two countries by the 49th parallel of north latitude from the Rocky Mountains to the Pacific Ocean: offering at the same time to make free to Great Britain any port or ports on Vancouver's Island south of this parallel, which the British Government may desire." A friendly

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spirit dictated the proposition, which it was sincerely hoped and expected might "prove the foundation of lasting peace and harmony between the two countries." || The proposition, which excited surprise by its moderation, was rejected by the British Plenipotentiary at Washington, who, without even waiting to refer the subject to the Ministry in England, suffered the negociation on his part to drop, expressing his trust that the United States would offer "some further proposal for the settlement of the Oregon Question." In consequence of receiving such an answer, the American Secretary of State withdrew the offer that he had made. || On hearing of this abrupt rejection of the American proposal, Lord Aberdeen invited Mr. MacLane, the new American Minister at London, to an interview of which Mr. MacLane made report: — "Lord Aberdeen not only lamented but censured the rejection of our proposition by Mr. Pakenham, without referring it to his Government. He stated that, if Mr. Pakenham had communicated the American proposition to the Government here, as he was expected to have done, he, Lord Aberdeen, would have taken it up as the basis of his action, and entertained little doubt that he would have been enabled to propose modifications which might have resulted in an adjustment mutually satisfactory to both Governments." || The conduct of Mr. Pakenham was not censured in private only, Lord Aberdeen censured it in the House of Lords. In the House of Commons, on the night of Friday, the 23rd of January, 1846, Lord John Russell condemned it as "a hasty proceeding." Sir Robert Peel was cheered, when on the same evening he observed: — "It would have been better, had he transmitted that proposal to the Home Government for their consideration; and, if found in itself unsatisfactory, it might possibly have formed the foundation for a further proposal." And now that the reopening of the negotiation was thrown upon his Ministry, he was loudly applauded by the House, as he gave a pledge for his own future conduct in these words: "I think it would be the greatest misfortune, if a contest about the Oregon between two such Powers as England and the United States, could not, by the exercise of moderation and good sense, be brought to a perfectly honourable and satisfactory conclusion."

Final Proposal of the Earl of Aberdeen.

Lord Aberdeen confessed that it now fell to him to propose a peaceful solution of the long controversy. Mr. Everett had left him no doubt as to the utmost departure from the parallel of 49, which the United States, under the late Administration, could have conceded. The only doubt was now: if the United States would still be willing to yield so much. The rude rejection of Mr. Buchanan's proposal had roused and united their people. Mr. Calhoun, the late Secretary of State, and the ablest Senator from one section of the country, declared himself in the Senate for the 49th degree as the boundary line. Mr. Webster, the former Secretary of State, who had settled with Lord Ashburton the north-eastern boundary, repeatedly "said as plainly

as he could speak, or put down words in writing, that England must not expect any thing south of 49°." All those Members of Congress who were of a different mind, Mr. John Quincy Adams, a late President of the United States, Mr. Cass, afterwards Secretary of State, Mr. Sevier, then the Chairman of the Committee on Foreign Affairs, contended, not for less than the line of 49°, but, under the heirship from Spain, for very much more. The voice of England became loud for the line of the 49th parallel. Mr. Bates, an American naturalized in Great Britain by Act of Parliament, and much trusted by both Governments, wrote from London: "The 49°, to the strait, giving Vancouver's Island to Great Britain, is as much as any American, be he Bostonian or Carolinian, will I think consent to give up. If Great Britain is not satisfied with that, let them have war if they want it." ‖ The British Government sought anxiously to know what proposition the American Government would consent to receive, and the American Government proved its firmness by its moderation. To protect the rights of the country Congress voted to give to Great Britain the twelve months' notice required by Treaty for terminating the Convention of 1827, and thus open the region of the north-west to the progress of American colonization. Meanwhile, on the 26th of February, 1846, Mr. Buchanan answered that the President would consent to consult the Senate on the proposition to divide the territory between the two countries "by the 49th parallel and the Straits of Fuca," so that "the Cape of Vancouver's Island would be surrendered to Great Britain." This was exactly the proposition of Mr. Everett. ‖ On the 15th of May, 1846, information of the notice for terminating the Convention of 1827 was received by the British Ministry in London. For four years Lord Aberdeen had been striving to close this question of boundary. He had privately and publicly censured his subordinate, Mr. Pakenham, at Washington, for rejecting the parallel of 49. He had taken pains to learn what deviation from that parallel the United States might accept. The Secretary of State for the United States, after minute inquiry concerning the probable vote of the Senate, had promised not at once to reject the offer of the line proposed by Mr. Everett, and not to listen to any demand for a larger concession. This had been formally communicated to the British Government by Mr. MacLane, the American Minister at London. And now, within two days after receiving news of the termination of the Convention of 1827, Lord Aberdeen held a lengthened conference with Mr. MacLane, in which the nature of the proposition he contemplated submitting for an amicable settlement of the Oregon Question "formed the subject of a full and free conversation." Mr. MacLane was a calm and experienced statesman, trained in business, exact in his use of words, careful especially in reporting what was said by others. Lord Aberdeen in the House of Lords publicly expressed his esteem for him, founded on an acquaintance which dated from fifteen or sixteen years before. ‖ With this knowledge of Mr. MacLane's character and of the confidence reposed in him

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by Lord Aberdeen, I request the Imperial Arbitrator to take in hand the map of the Oregon territory by Wilkes, which had been published in England as well as in America in 1845, and which was the latest, most authentic, and best map of the territory, as well as the only one recognized by the American Senate; and, with this map in hand, to read the following extract from Mr. MacLane's official Report of the interview made on the 18th of May, 1846: —

"I have now to state that instructions will be transmitted to Mr. Pakenham by the steamer of to-morrow to submit a new and further proposition on the part of this Government for a partition of the territory in dispute. ‖ The proposition, most probably, will offer substantially: — ‖ First. To divide the territory by the extension of the line on the parallel of 49 to the sea: that is to say, to the arm of the sea called Birch's Bay, thence *by the Canal de Arro and Straits of Fuca to the Ocean.*"

* * * * *

Here follow other clauses conceding to the Hudson's Bay Company a temporary use of the Oregon River for navigation, with other advantages, and protection to British subjects who would suddenly come under the jurisdiction of the United States. To these clauses the phrase "most probably" applies for they were not precisely ascertained; but not to the boundary. On that point the further statement of Mr. MacLane in the same dispatch leaves no room for a doubt. His words are: "During the preceding Administration of our Government, the extension of the line on the 49th parallel to the Straits of Fuca, *as now proposed by Lord Aberdeen, was actually suggested by my immediate predecessor (Mr. Everett)*, as one he thought his Government might accept."

Now what the proposal of Mr. Everett had been we know from the citations which I have made from his despatches; and I have already referred to the fact that he had drawn the line of demarcation upon the map, and specially directed the attention of Lord Aberdeen to it. ‖ On the same day Lord Aberdeen sent the Treaty which Mr. Pakenham was to invite Mr. Buchanan to sign. In the accompanying Instruction to Mr. Pakenham he accepted the parallel of 49° as the radical principle of the boundary, and described the line as a line of demarcation "leaving the *whole of Vancouver's Island with its ports and harbours in the possession of Great Britain.*" ‖ A suspicion of ambiguity could not lurk in the mind of any one. Mr. Benton found the language so clear that he adopted it as his own. In his speech in the Senate on the day of the ratification of the Treaty, he said: —

"The Ist Article of the Treaty is *in the very words* which I myself would have used, if the two Governments had left it to me to draw the boundary line between them. * * * The line established by the Ist Article follows the parallel of 49° to the sea, with a slight defection, through the Straits of Fuca, *to avoid cutting off the south end of Vancouver's*

Island. * * When the line reaches the channel which separates Vancouver's Island from the continent, it proceeds to the middle of the channel, and thence, turning south *through the Channel de Haro* (wrongly written Arro on the maps), to the Straits of Fuca, and then west, through the middle of that Strait, to the sea. This gives us * * * the *cluster of islands,* between *de Haro's Channel and the continent.*"

The language of the Treaty seemed perfectly clear to the Senate, to the President, to his Secretary of State, and to every one of his constitutional advisers, as departing from the line of the parallel of 49⁰ only so far as to yield the southern extremity of Vancouver's Island, and no more. And so it was signed on the 15th of June, 1846, and returned to England for the exchange of ratifications. ‖ In the House of Commons Lord Palmerston welcomed it as honourable to both countries; Sir Robert Peel quoted from a despatch which proved that he was aware of the three days' debate in the American Senate on the Treaty before its approval. He cited every word of the Article on the boundary, and interpreted it thus: —

"Those who remember the local conformation of that country will understand that that which we proposed is the continuation of the 49th parallel of latitude till it strikes the Straits of Fuca; that that parallel should not be continued as a boundary across Vancouver's Island, thus depriving us of a part of Vancouver's Island, but that the middle of the channel shall be the future boundary, thus *leaving us in possession of the whole of Vancouver's Island,* with equal right to the navigation of the Straits."

Mr. Buchanan and Sir Robert Peel believed they had closed every cause of Dissension.

It had been the special object of Mr. Buchanan to leave nothing in the Treaty which could give occasion to future controversy. And on the night before Sir Robert Peel retired from office, never again to resume it, he spoke of the Treaty as having averted the dreadful calamity of a war between two nations of kindred origin and common language, and having at length "closed every cause of dissension between the two countries." All Great Britain, all the United States, were gladdened by the belief that at last every controversy between the two nations had come to a happy end.

The Ministry of Lord John Russell renews Dissension.

And yet it was not so. My country has had no serious difficulties on its limits with any Power but Great Britain. When its boundary on the south with Spain was adjusted by Treaty, not a difference arose, though the line extended from sea to sea. When afterwards the southern boundary was regulated with Mexico under a Treaty most imperfect in its descriptions,

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Commissioners unrestrained by instructions promptly settled the line. It is with Great Britain alone that obstinate dissensions on boundaries, extending from the Gulf of St. Lawrence to the Pacific, have exercised disturbing influences for sixty-four years. At last we thought ourselves assured of quiet on that side also by the Treaty of 1846; and though its terms were not altogether satisfactory, the country, in expectation of rest, accepted cheerfully and unanismously the action of its Government. Yet, after a pause of hardly two years, the strife was reopened by the Ministry which succeeded that of Sir Robert Peel. Under instructions from Lord Palmerston, the British Minister at Washington, on the 13th of January, 1848, in a proposed draft of instructions to Commissioners for settling the boundary, indirectly insinuated a claim that the line of boundary should be drawn on the channel through which Vancouver, in 1792, had sailed from Admiralty Inlet to Birch's Bay.

This insinuation took the American Government by surprise. The history of the negotiation shows that no such line was suggested by either side to the other. Vancouver was an explorer, who examined every inlet and bay and passage, not a merchant seeking the shortest, most natural, and best passage. Nothing justifies a reference to his course of sailing from one interior bay to another, as the line of the Treaty. The suggestion is in open conflict with the law of nations. The draft of the Treaty was made entirely, even to the minutest word, by the British Ministry, and was signed by both parties without change. The British Government cannot, therefore, take advantage of an ambiguity of their own, otherwise that draft of the Treaty would have been a snare. Such is the principle of natural right, such the established law of nations. Hugo Grotius lays down the rule that the interpretation must be made against the party which drafted the conditions: "Ut contra eum fiat interpretatio, qui conditiones elocutus est." But no one has expressed this more clearly than Vattel, who writes: —

"Voici une règle qui coupe court à toute chicane: *Si celui qui pouvoit et devoit s'expliquer nettement et pleinement ne l'a pas fait, tant pis pour lui; il ne peut être reçu à apporter subséquemment des restrictions qu'il n'a pas exprimées.* C'est la maxime du droit Romain: *Pactionem obscuram iis nocere, in quorum fuit potestate legem apertius conscribere.* L'équité de cette règle saute aux yeux; sa nécessité n'est pas moins évidente. Nulle convention assurée, nulle concession ferme et solide, si on peut les rendre vaines par des limitations subséquentes, qui devoient être énoncées dans l'acte, si elles étoient dans la volonté des contractans."

Plea for the Integrity of Sir Robert Peel's Ministry.

And can it be true, that Sir Robert Peel and Lord Aberdeen were insincere in their professions of an earnest desire to settle the boundary question in North-West America? Did they put into the core of the Treaty

which they themselves framed, words interpreted in one way by all Americans and by themselves in public, and secretly interpreted by themselves in another? When Sir Robert Peel, on the last night of his official life, in the face of political enemis and friends, cast up the account of his Ministry for the judgment of posterity and declared in the most public and solemn manner that he had "closed every cause of dissension between Great Britain and the United States," had he indeed planted the seed of embittered discord in the instrument that he and his associate Minister claimed as their own work, and extolled as a Convention of peace? || My respect for Sir Robert Peel and his administration forbids the thought that they put any ambiguity into the Treaty which they themselves draughted. There attaches to human language such imperfection that an acute caviller may dispute about the meaning of any proposition. But the words of the present Treaty are so singularly clear that they may claim protection under the first general maxim of international law on the subject of interpretation: "qu'il n'est pas permis d'interpréter ce qui n'a pas besoin d'interprétation."

The Words of the Treaty.

The words of the Treaty are as follows: —

"From the point on the forty-ninth parallel of north latitude, where he boundary laid down in existing Treaties and Conventions between the United States and Great Britain terminates, the line of boundary between the territories of the United States and those of Her Britannic Majesty, shall be continued westward along the said forty-ninth parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly through the middle of the said channel, and of Fuca's Straits to the Pacific Ocean: *Provided, however,* that the navigation of the whole of the said channel and straits south of the forty-ninth parallel of north latitude remain free and open to both parties."

The Words of the Treaty, taken together.

The language of the Treaty, taken as a whole, admits no interpretation but the American. The radical principle of the boundary is the forty-ninth parallel of north latitude, and the only reason for departing from that parallel was to yield the whole of Vancouver's Island and no more, to the power which would already possess the greater part of that island. To express this line concisely, in both countries it was described as the line of the "forty-ninth parallel and Fuca's Straits". This short form of expression occurs many times in the despatches of Mr. MacLane; in the instructions of Mr. Buchanan; in the letters of Mr. Bates from London; in an article in the London "Quarterly Review", written in February 1846, and published in March; and

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finally in the speech of Sir Robert Peel on the 29th of June, 1846, which I have already quoted. The description of the line as that "of the forty-ninth parallel and Fuca's Straits" was not only the usage of the day; it was also well chosen for all time. The 49th parallel can be found as long as the sun shall continue in the heavens; Fuca's Straits end at the south-east cape of Vancouver's Island, and will end there till nature shall heave with a convulsion. If the name of Haro does not specially appear in the Treaty, let it be borne in mind that neither does the name of the Gulf of Georgia.

The Channel.

The words of the description considered collectively, establish the American interpretation of the Treaty, and exclude every other; the same result follows from the consideration of each separate word. When the Treaty speaks of *"the channel"*, for that part south and west of Birch's Bay, it must mean the Channel of Haro, for no other "channel" was known to the negotiators. The Channel of Haro was on the map of Vancouver, the highest English authority, and on the map of Wilkes, the highest American authority, at the time when the Treaty was signed, and no other channel is named on either of these maps, or on any map used by the negotiators. On the chart of those waters by Duflot de Mofras, published in 1844 under the auspices of Louis Philippe and the French Ministry, the Channel of Haro is named, and no other. In the collection of maps in the Royal Library at Berlin, not a single German or other map, anterior to June, 1846, names any other channel than that of Haro. How is it possible then, that any other channel could have been intended, when no other was named on any map which it can be pretended was known to Lord Aberdeen or Mr. MacLane, to Mr. Buchanan, or Mr. Pakenham? Again, the word *"channel"*, when employed in Treaties, means a deep and navigable channel, and where there are two navigable channels, by the rule of international law preference is to be given to the largest column of water. Now, compared with any other channel through which a ship could pass from the sea at the 49th parallel to the Straits of Fuca, the Channel of Haro is the broadest and the deepest, the shortest, and the best. Its maximum width is six and a half English miles, and there is no other channel of which the maximum width exceeds four miles. The narrowest part of the Channel of Haro is about two and a quarter English miles, and there is no other channel of which the minimum width exceeds about one and a quarter English miles. With regard to the depth the contrast is still more striking. A cross section on the parallel of 48° 45′ shows the Canal de Haro to be about 120 fathoms deep, about twice as deep as any other; on the parallel of 48° 35′ the Canal de Haro is nearly 150 fathoms deep, against 30 fathoms for any competitor; on the parallel of 48° 25′ the Canal de Haro has nearly 110 fathoms, while no other

passage has more than 40. || Not only is the volume of water in the Canal de Haro vastly greater than that in any other passage; a single glance at any map shows that it is the shortest and most direct way between the parallel of 49° and Fuca's Straits. Duflot de Mofras describes it at notoriously the best. || If the Channel of Haro excelled all others only on one point, if it were the widest, not the deepest, or the reverse, or if, being the widest and deepest, it were not the shortest and best, there might be some degree of colour for cavil; but, since the Channel of Haro is the broadest and the deepest, and the shortest and the best, how can any one venture to pretend that any other is "the channel" of the Treaty?

"The Channel which separates the Continent from Vancouver's Island."

The next words of the Treaty are: "the channel which separates the Continent from Vancouver's Island," and this from latitude about 48° 46′ can be no other than the Canal de Haro. It is the only one which from that latitude to "Fuca's Straits" separates the Continent from Vancouver's Island. There are other passages which divide islands from islands, but none other separates the Continent from Vancouver's Island. In the statement the Continent is properly named first, because it is far away in the interior of the Continent that the line begins, and it is the Continent that the line leaves in going towards Vancouver. But when a great continent like North America is spoken of as distinguished from a large island lying near it, the intervening cluster of smaller islands would, according to all geographical usage, be taken as included with the Continent, and thus the Channel of Haro divides the Continent from Vancouver. But we will not waste words. Nobody can dispute that the Canal de Haro washes the eastern shore of Vancouver's Island, and separates that island from the Continent.

"And thence Southerly."

The next words in the Treaty are: "and thence southerly." The southerly deflection from the 49th parallel is made to avoid cutting Vancouver's Island, and must be limited to that object. The movement of the boundary line is steadily west to the Pacific. The Treaty knows only two points of compass: "*westward*," and this "*southerly*" deviation from the due west course. The southern deflection, therefore, must always be accompanied with the idea of a western direction, and of two channels going in a "southerly" direction, that which least interrupts the general "westward" direction of the line, must be chosen as the channel of the Treaty.

"Through the middle of the said Channel and of Fuca's Straits to the Pacific Ocean."

The next words of the Treaty are: "through the middle of the said channel and of Fuca's Straits to the Pacific Ocean." The Treaty contemplates

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a continuous channel to the Pacific; the Channel of Haro and Fuca's Straits form such a continuous channel, and a glance at the map will show that no other channel can pretend to do so.

So then the description of the Treaty as a whole applies to no channel but that of Haro; and every single phrase taken separately, points also to that channel, and to that channel alone.

"The Straits of Rosario."

And yet the British Government ask the Imperial Arbitrator to find the channel of the Treaty in a passage for which in January 1848 they had no name and no other description than "the wide channel to the east of numerous islands, which is laid down by Vancouver," and which now in 1871 they call by the name of "the Rosario Straits." || My first request is that the Imperial Arbitrator will ascertain where, on the 15th of June, 1846, the day when the Treaty was signed, the negotiators supposed Rosario Straits to lie. On that day the name "Straits of Rosario" was *on every map used by the negotiators*, placed upon the waters which divide the Island of Texada from the Continent, far north of the paralled of 49°. There it lies fast anchored on the map of Vancouver, published in 1798; it holds the same place in the atlas of the French translation of Vancouver. There too it is found on the French map of Duflot de Mofras, published in 1844; and also on the map of Wilkes, published in 1845; and there too on the British map of Vancouver's Island, published by the geographer to the Queen, so late as 1848. Then since all British and all American maps, which in 1846 had on them the name "Straits of Rosario," located those straits far to the north of 49°, how can the British Government invite Your Majesty to say that the Straits of Rosario form the line of boundary established by British and American negotiators in that year, between the United States and the British territory? || How and why the British unmoored the name from the waters to which they themselves had consigned it, and where it remained for just half a century, I leave to them to explain and to justify. I remark only that they cannot produce a map, English, French, Spanish, or German, older than 1848, on which the passage which they now call the Straits of Rosario bears that name. On Spanish maps the name is applied only to the very broad channel lying north of the Canal de Haro and of the 49th parallel of latitude. || Further, the so-called Straits of Rosario are not straits at all. It is the track of Vancouver, on his way from Admiralty Inlet to the north, as his map shows, but it received from him no name whatever. On British maps it never bore a name till after the British Government introduced a new interpretation of the Treaty of June 1846. || Again, and this remark is of conclusive importance, by itself alone sufficient to decide the question; the line of the Treaty must run "from the middle of the channel which separates

the continent from Vancouver's Island." Now the so-called Straits of Rosario neither touch the continent nor Vancouver's Island. They divide small islands from small islands, and nothing else; they have no pretension to divide Vancouver from the continent, or the continent from Vancouver. Moreover the water-line of the Treaty must be a channel which makes a continuous line with Fuca's Straits, for the words of the Treaty are "through the middle of the said channel and of Fuca's Straits." Now the so-called Straits of Rosario lead only to a sound, which Spanish voyagers called the Bay of Santa Rosa, they do not connect with Fuca's Straits, which cease at the south-eastern promontory of Vancouver's Island. Reversing the track of Vancouver, and following the so-called Straits of Rosario southerly, the mariner would enter Admiralty Inlet, he never would reach the Straits of Fuca. Then, too, compared with the Canal de Haro, the so-called Strait of Rosario is, as we have seen, a narrower passage, a shallower passage, and a roundabout passage.

Conclusion.

But enough; the rights of America cannot be darkened except by an excess of words. The intention of the parties to the Treaty is made plain by its history, and the boundary which we claim is clearly set forth in its words, taken collectively and taken separately. I will close by citing general principles of interpretation established by international law. A party offering the draught of a Treaty is bound by the interpretation which it knew at the time that the other party gave to it. Lord Aberdeen cannot have doubted how the Treaty was understood by Mr. MacLane, by Mr. Buchanan, and by the Senate of the United States. "Where the terms of promise," writes Paley, whose work was long a text book at Oxford, "admit of more senses than one, the promise is to be performed in the sense 'in which the promiser apprehended at the time that the promisee received it.' This will not differ from the actual intention of the promiser, where the promise is given without collusion or reserve; but we put the rule in the above form to exclude evasion, wherever the promiser attempts to make his escape through some ambiguity in the expressions which he used." Again, "Where a right admits of different degrees, it is only the smallest degree which may be taken for granted." — "Ist ein Recht verschiedener Abstufungen fähig, so darf zunächst nur die geringste Stufe als zugestanden angenommen werden." This rule of Heffter fits the present case so aptly, that it seems made for it. There being degrees in the departure from the parallel of 49°, it must be taken that only the smallest degree was conceded. Finally and above all: there is a principle which not only controls the interpretation of Treaties, but the results of investigation in every branch of human knowledge. A theory which implies confusion and contradiction is at once to be rejected; of two rival theories, that which most nearly reconciles all phenomena is to be preferred; the theory

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that reconciles all appearances and all circumstances is to be received as true. || The British interpretation of the Treaty implies that the British who exclusively draughted it, sowed the seeds of future dissensions in the very instrument by which they proposed to settle every boundary question for ever; that among the negotiators of the Treaty there were those who duped, and those who were dupes. Lord Aberdeen ceases to be the "straightforward" man of Mr. MacLane's report. On the American side the statesmen appear void of spirit and of common sense, and easily circumvented. The historical process by which the Treaty was arrived at becomes incomprehensible. The names on maps must be changed; the conformation of islands and continents and the highways of the great deep are made to expand and contract so as to suit the cavils of a Government which does not profess exactly to understand the true meaning of the Treaty, for every word of which it is itself responsible. Take the other theory: interpret the Treaty as the Americans accepted it, and there are no statesmen on the British side who attempted to dupe, and no dupes on the American side. The history of the negotiation becomes clear, and is consistent with its result. Mr. MacLane retains the reputation for prudence and clear perception and careful statement which has always been attributed to him. All words that fell from the pen or lips of every one concerned in framing, accepting, or approving the Treaty, agree together and bear the stamp of good intention and uprightness. Everything that was uttered by Mr. Everett, Mr. MacLane, and Mr. Buchanan, by Lord Aberdeen, Mr. Benton, or Sir Robert Peel, is perfectly reconciled, without even the semblance of contradiction. The straits and channels may rest where nature has set them, and old names may be restored to their rightful places. The completion of the Treaty does honour to the labours of honest and able statesmen, bent on establishing friendship and peace between "kindred nations." Persons and history and reports of conversations and the words of the Treaty, all chime together in the most perfect harmony; inviting an award which will command ready acquiescence, and leave nothing to rankle in the wound which it heals.

[Auf die beiden hier mitgetheilten Streitschriften folgte noch von jeder Seite ein weiteres Schriftstück, ein "Second and definitive Statement on behalf of the Government of Her Britannic Majesty" und "Reply of the United States to the Case of the Government of Her Britannic Majesty."]

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DEUTSCHLAND. — Schiedsspruch Sr. Majestät des Deutschen Kaisers in der San Juan-Grenzfrage.

Wir, Wilhelm, von Gottes Gnaden, Deutscher Kaiser, König von Preussen, etc., etc., etc.

Nr. 5037. Deutschland. 21. Oct. 1872.

Nach Einsicht des zwischen den Regierungen Ihrer Britischen Majestät und der Vereinigten Staaten von Amerika geschlossenen Vertrages de dato Washington den 6ten[1]) Mai, 1871, Inhalts dessen die gedachten Regierungen die unter ihnen streitige Frage: ob die Grenzlinie, welche nach dem Vertrage de dato Washington den 15ten Juni, 1846, nachdem sie gegen Westen längs des 49ten Grades Nördlicher Breite bis zur Mitte des Kanals, welcher das Festland von der Vancouver Insel trennt, gezogen worden, südlich durch die Mitte des gedachten Kanals und der Fuca-Meerenge bis zum Stillen Ocean gezogen werden soll, durch den Rosario-Kanal, wie die Regierung Ihrer Britischen Majestät beansprucht, oder durch den Haro-Kanal, wie die Regierung der Vereinigten Staaten beansprucht, zu ziehen sei, Unserem Schiedsspruche unterbreitet haben, damit Wir endgültig und ohne Berufung entscheiden, welcher dieser Ansprüche mit der richtigen Auslegung des Vertrages vom 15ten Juni, 1846, am meisten im Einklange stehe;

Nach Anhörung des Uns von den durch Uns berufenen Sach- und Rechtskundigen über den Inhalt der gewechselten Denkschriften und deren Anlagen erstatteten Vortrages,

Haben den nachstehenden Schiedsspruch gefällt: —

Mit der richtigen Auslegung des zwischen den Regierungen Ihrer Britischen Majestät und der Vereinigten Staaten von Amerika geschlossenen Vertrages de dato Washington den 15ten Juni 1846, steht der Anspruch der Regierung der Vereinigten Staaten am meisten im Einklange, dass die Grenzlinie zwischen den Gebieten Ihrer Britischen Majestät und den Vereinigten Staaten durch den Haro-Kanal gezogen werde.

Urkundlich unter Unserer Höchsteigenhändigen Unterschrift und beigedrucktem Kaiserlichen Insiegel.

Gegeben Berlin den 21. October, 1872.

Wilhelm.

[Das Gutachten der von Sr. Majestät dem Kaiser berufenen Sach- und Rechtskundigen, Obertribunals-Vicepräsident Grimm, Oberhandelsgerichtsrath Dr. Goldschmidt und Professor Kiepert ist nicht publicirt, auch den beiden Parteien nicht mitgetheilt worden und ist der Redaction des Staatsarchivs nicht zugänglich gewesen.]

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[1]) *Sic. in orig.* Query, May 8? (Anmerkung des Englischen Blaubuchs.)

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DEUTSCHLAND. — Leiter des Auswärtigen Amts (Hr. von Balan) an den englischen Gesandten in Berlin (Lord Odo Russell). — Ablehnung des angebotenen Kostenersatzes wegen der San Juan-Entscheidung.

(Translation.) Berlin, November 1, 1872.

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In the Note which Her Britannic Majesty's Ambassador, Lord Odo Russell, was good enough to address to the Undersigned on the 21st ultimo, communication was requested of the amount of costs and expenses incurred by this country in the boundary question between Great Britain and the United States. || In reply to this inquiry, the Undersigned, while expressing his thanks for this courteous offer, has the honour to inform his Excellency Lord Odo Russel that no costs or expenses have been incurred by this country in the matter referred to. || The Undersigned, etc.

Balan.

[Gleichlautend wurde auf die gleiche Anfrage dem amerikanischen Gesandten, Mr. George Bancroft, geantwortet.]

Französische Republik.

Nr. 5039.

FRANKREICH. — Botschaft des Präsidenten der Republik, Mr. Thiers, und darauffolgende Debatte in der Sitzung der Nationalversammlung vom 13. November 1872.

Messieurs,

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Après une séparation de trois mois, pendant lesquels l'oeuvre de réparation que vous nous avez confiée n'a pas été interrompue un seul instant, nous venons remplir le devoir annuel que nous imposent les institutions républicaines, et vous exposer la véritable situation du pays, le bien et le mal n'étant ni exagérés ni déguisés.

Le calme sur lequel vous comptiez, et dont vous aviez donné l'exemple en vous interdisant toute discussion irritante au moment de vous séparer, ce calme s'est maintenu. Nous avons promis de faire respecter la représentation nationale dans la mesure de nos pouvoirs légaux, et nous n'avons pas souffert

qu'il fût porté atteinte au respect dont elle doit être entourée. . . (Légères rumeurs à droite. — Assentiment à gauche.) Car, dans ce pays bouleversé par les révolutions et par la guerre, que resterait-il debout si la souveraineté nationale, ici représentée aussi légitimement qu'elle le fut jamais, n'était l'autorité suprême, source de toutes les autorités, partout respectée, et quand elle a parlé, partout obéie? (Très bien! très bien!)

Mais nous pouvons l'affirmer, sauf d'inévitables incidents, ce respect a été maintenu, et vous reprenez paisiblement vos siéges de législateurs et de légitimes représentants de la souveraineté nationale. (C'est vrai! — Très bien! très bien!)

Tout en nous attachant à maintenir l'ordre, nous n'avons cessé de veiller au cours régulier des affaires, à la stricte observation des lois, au développement de la grande opération financière qui doit aboutir à la libération du territoire, à l'évacuation des départements qui devaient être les premiers affranchis, à la rentrée des nouveaux impôts, à la réorganisation de notre sage et vaillante armée, à la marche de nos négociations commerciales, enfin à la pacifique et amicable direction de nos relations avec les deux mondes

Pendant ce temps, le pays travaillait de son côté avec cette activité qui ne l'abandonne jamais, qui est en ce moment la puissante réparatrice de nos malheurs, et qui, cette année, nous procurera un mouvement commercial supérieur à ce qu'il avait été dans les temps les plus prospères.

Ne quittons pas ce sujet sans remercier la Providence, qui, dans ce moment d'immenses sacrifices, nous a envoyé les plus belles récoltes que nous ayons obtenues depuis un quart de siècle . . . . (C'est vrai!) ce qui nous a aidés à solder une partie des sommes que nous devions acquitter au dehors. Et ici, messieurs, il n'y a à remercier que Dieu, souverain auteur de toutes choses, qui, tour à tour, instruit, soutient, relève quand il lui plaît les nations qui ont failli, et n'ont désespéré ni de lui ni d'elles-mêmes! (Bravos et applaudissements prolongés.)

Permettez-moi, messieurs, de ne pas m'en tenir à ces énonciations générales, et d'entrer dans quelques détails sur nos affaires les plus essentielles.

L'emprunt du mois de juillet est, sans contredit, l'opération financière la plus considérable qu'on ait encore tentée. Jamais, en effet, on avait demandé trois milliards et demi à la fois, et jamais on n'avait reçu pour réponse une souscription de quarante-trois milliards. Nous savons bien que les auteurs de cette offre n'auraient voulu ni pu la réaliser; néanmoins on est fondé à dire que, en cette occasion, la totalité des capitaux disponibles du monde commercial a été offerte à la France.

Il y a d'ailleurs quelque chose de plus significatif que l'offre, c'est le versement. On pouvait craindre, en effet, qu'il fallût un temps bien long pour réaliser cette offre; et cependant, au jour où nous avons l'honneur de parler devant vous, le Trésor a déjà reçu en valeurs réelles dix-sept cent cinquante

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millions, de la part des capitalistes qui sont venus, les uns opérer leurs versements aux époques convenues, les autres libérer en une seule fois les rentes qu'ils avaient souscrites. C'est par conséquent, la moitié de cet emprunt colossal, réalisée en moins de trois mois. (Mouvement. — Très bien!)

Nous n'avions rien fait, du reste, pour exciter en cette circonstance la fièvre de la spéculation; car, entre les prix d'émission proposés, nous avions choisi le plus élevé, celui de 64 fr. 50. Or, les cours actuels, qui oscillent depuis deux mois entre 86 et 87 fr., prouvent que nous n'avions laissé à la spéculation que le moindre bénéfice qu'on pût lui abandonner, et que néanmoins ce bénéfice était suffisant, puisque chaque fois qu'une baisse se produit, les ordres d'achats, arrivant tout à coup du fond de nos provinces, constituent une sorte d'amortissement quotidien de plusieurs millions par jour, qui opère le classement successif de l'emprunt.

L'opération qui doit nous fournir les moyens de libérer notre territoire s'accomplit donc sans aucun des accidents qu'on pouvait craindre et que nous prédisait la malveillance. Nous n'avons même pas vu apparaître la crise monétaire, qui, au précédent emprunt, s'était produite un instant, mais que des mesures prises à propos avaient arrêtée sur-le-champ. Pour des opérations si considérables et si nouvelles, l'expérience n'existait pas. Mais cette expérience s'est bientôt formée, et elle a été mise à profit par notre administration financière.

La difficulté principale a toujours consisté, comme nous l'avons dit bien des fois, à payer à l'étranger une somme de 5 milliards. La payer en or ou en argent aurait privé le pays de tout son numéraire; la payer en marchandises aurait été impossible, car aucune puissance, si commerçante qu'on la suppose, n'a un commerce de 5 milliards avec quelque pays que ce soit. L'Angleterre elle-même n'a un tel commerce qu'avec le monde entier, et c'est du papier qu'on échange avec tous les pays, qu'il faut se servir pour opérer de tels payements. Mais ce papier, il faut l'acheter avec prudence, si l'on ne veut pas produire une hausse du change qui grèverait dangereusement le commerce et ferait presque aussitôt sortir le numéraire. C'est à quoi s'est appliquée notre administration financière. En achetant avec les précautions convenables, elle s'était procuré à un taux modéré 450 millions de traites de tous les pays sur l'Allemagne.

Elle ne s'était pas bornée à cette mesure. Au premier emprunt, quelque rassurant que fût l'aspect du marché européen, elle avait cru sage de se faire garantir la souscription de la totalité de l'emprunt: ce qui avait coûté au Trésor une commission qu'il ne faut pas regretter en présence d'une opération de deux milliards, qui ne s'était jamais vue. Au second emprunt, au contraire, celui de juillet dernier, le doute ne pouvant plus exister, l'administration des finances a eu recours à un moyen tout différent, et elle s'est fait garantir, non pas la souscription de l'emprunt qui était certaine, mais le taux du change qui aurait monté démésurément. Nous avons donc acquis à forfait et à bon

marché sept cents millions de traites sur l'Allemagne. De plus, les souscriptions de nos rentes à l'étranger, favorisées au moins d'un faible avantage, nous ayant encore procuré environ trois cents millions de papier, nous avons pu aborder la grande opération dont il s'agissait, avec quatorze ou quinze cents millions de traites sur l'Allemagne, de manière à pouvoir acquitter au dehors ces sommes prodigieuses sans produire aucune perturbation dans les changes. (Marques nombreuses de satisfaction.)

Au jour même où nous avons l'honneur de nous adresser à vous, nous avons déjà payé à la Prusse 800 millions; nous lui en payerons 200 en décembre. Ainsi, un milliard aura été acquitté en quatre mois, et il nous restera cinq à six cents millions de traites pour les payements de l'année prochaine.

Cependant, comme le papier sur l'étranger attire toujours le métal à sa suite, et que le numéraire pouvait devenir rare, de grandes précautions avaient été prises d'accord avec la Banque de France, afin de parer aux accidents qui pouvaient se produire. Vous l'aviez autorisée, en deux fois, à porter ses émissions de billets de 2 milliards 400 millions à 3 milliards 200 millions; et ce grand établissement, toujours dévoué à l'Etat, avait fait travailler ses ateliers jour et nuit pour fabriquer 100 millions de petites coupures, partie en billets de 20 et de 5 francs, partie en monnaie divisionnaire d'argent.

Grâce à ces précautions, nous avons pu opérer, sans secousse, sans embarras pour le commerce, le plus grand transport de valeurs qui ait jamais été exécuté dans la monde: et s'il s'est rencontré quelque gêne ce n'est pas chez nous: c'est dans les pays, où des spéculations locales avaient compliqué la situation générale, et où l'empressement à souscrire nos rentes avait déterminé la création d'une grande quantité de valeurs. Mais cette gêne ne saurait être que passagère. L'or qui arrive des colonies anglaises payera bientôt nos blés, et l'or, prix de ces blés, ira, de Londres à Berlin, liquider notre dette envers l'Allemagne.

Quelque détails sur l'état de la Banque de France achèveront de vous faire connaître la situation économique du pays.

Ainsi que je viens de vous le dire, vous aviez autorisé la Banque à porter ses émissions de billets de 2 milliards 400 millions à 3 milliards 200 millions. Jusqu'au mois dernier, elle n'avait pas dépassé une fois cette ancienne limite de 2 milliards 400 millions.

Depuis un mois, la sortie inévitable du numéraire, attiré vers l'Angleterre, et les abondants secours donnés au commerce par l'escompte, ont exigé une plus grande émission de monnaie fiduciaire; mais encore aujourd'hui, sur les 800 millions que vous l'aviez autorisée à émettre, la Banque n'a émis que 150 millions, et il lui reste 650 millions, dont très probablement elle n'aura pas à faire usage.

Il faut ajouter que son portefeuille, qui ne contenait dans les meilleurs temps que 600 à 650 millions d'effets de commerce, en contient aujourd'hui

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950; ce qui révèle le plus grand développement d'affaires qui se soit encore produit dans notre pays. Elle avait, au moment où la guerre a fini, 500 millions en or et en argent dans ses caisses; elle en a aujourd'hui près de 800, auxquels il faut ajouter 44 millions de lingots en dépôt, plus de 50 millions en or et en argent appartenant à l'Etat, ce qui constitue un dépôt métallique de 900 millions, peu inférieur à celui qui existait avant la guerre. Enfin, sur 800 millions d'effets ajournés légalement par suite des événements des deux dernières années, il ne restait le mois dernier que 17 millions d'impayés. Il n'en reste plus aujourd'hui que sept, sur lesquels deux ou trois rentreront encore. Ces circonstances expliquent comment le billet de la Banque de France est accueilli, dans le monde entier, à l'égal de l'or et de l'argent. Et si nous disons cela, messieurs, ce n'est pas pour en faire honneur à qui que ce soit, mais pour prouver l'étendue et la solidité du commerce français, fondement du crédit de la France elle-même, et nerf de sa puissance. (Très bien! très bien!)

Maintenant, messieurs, il faut que je vous parle de ce commerce français, et que je vous fasse connaître quels ont été ses progrès pendant la présente année 1872. De cette année, nous connaissons neuf mois, et à l'entrée du dixième nous pouvons déjà dire avec précision ce que seront les douze. En ajoutant à ces neuf mois trois mois évalués d'après la moyenne des neuf premiers, on est sûr de ne se point tromper, car la fin de l'année est presque toujours sa portion la plus productive.

En adoptant cette base de calcul, les importations seront de 3 milliards 437 millions, et les exportations de 3 milliards 557 millions; total pour l'ensemble du commerce pendant l'année courante, 7 milliards 14 millions. Si l'on veut apprécier le progrès obtenu, il faut remonter à l'année 1869, dernière année de la paix, et la plus fructueuse de la période impériale. Or, en 1869, le commerce a été de 6 milliards 227 millions, ce qui fait ressortir, à l'avantage de l'année courante, une augmentation de 787 millions, augmentation presque sans exemple dans les périodes précédentess. (Applaudissements sur un grand nombre de bancs, au centre gauche et à gauche.)

Maintenant si l'on entre dans les détails, on sera frappé des remarques suivantes:

Les exportations dépasseront d'une centaine de millions les importations, et elles les auraient dépassées d'une somme bien plus considérable sans les introductions de céréales qui se sont accomplies au commencement de 1872, pour suppléer à la mauvaise récolte de 1871.

Sans ces introductions tout accidentelles, la supériorité des exportations sur les importations, serait non pas de 100 millions, mais de 247. Et quand je m'arrête à cette remarque, ce n'est pas que je regarde les importations comme un malheur. Il faut bien importer pour pouvoir exporter; mais il n'en est pas moins vrai que la supériorité habituelle des exportations sur les importations, quand elle est continue dans un pays, a toujours été considérée

comme le signe de sa supériorité industrielle et commerciale sur ses rivaux. (Assentiment sur les mêmes bancs.)

Si de plus on examine nos importations en elles-mêmes, on reconnaîtra qu'elles dénotent une grande activité manufacturière, puisqu'elles ont surtout consisté en matières premières.

Nous importerons, par exemple, les graisses indispensables à la savonnerie, à l'éclairage pour une somme de 70 millions, au lieu de 40 à 50. Les peaux brutes, matière de nos peaux ouvrées si recherchées, sont entrées pour une somme de 144 millions au lieu de 100. L'introduction des soies brutes dépassera de plus de 50 millions la moyenne des années antérieures.

Les introductions de laines et de cotons bruts n'ont pas varié malgré les apparences contraires, dues à la différence des prix. Une seule de nos importations pourrait paraître inquiétante pour notre industrie, c'est celle des tissus de coton venu du dehors, laquelle recevra, en 1872, l'accroissement considérable de 30 à 86 millions. Cette importation, qui chagrine en ce moment la Normandie et les Flandres, aurait de quoi les inquiéter si elle n'était parfaitement expliquée.

En effet, nos tarifs ont accordé à l'Alsace-Lorraine une faveur temporaire qui a permis à ses produits d'entrer au quart du droit pendant les six premiers mois de 1872, et à demi-droit pendant le reste de l'année.

Or, ce qui prouve que la cause vraie de l'énorme introduction des tissus de coton est due à la faveur temporairement accordée à l'Alsace-Lorraine, c'est qu'il en entrera par la seule frontière de l'Est plus que par toutes nos frontières réunies, c'est-à-dire 44 millions par l'Alsace-Lorraine contre 41 millions par l'Angleterre, la Suisse, la Belgique et l'Allemagne. C'est donc un état de choses qui va cesser, et qui ne peut inquiéter sérieusement nos provinces cotonnières.

Quant aux exportations, celles des soieries, des lainages, des peaux préparées, de l'orfèvrerie, de la tabletterie, de la lingerie, dépassent toutes de 20 à 25 p. 100, quelques-unes de près de 30, nos exportations antérieures. Les vins et eaux-de-vie ayant compensé une légère diminution sur les vins.

Ces divers chiffres expliquent comment l'année 1872 surpasse de 787 millions le commerce des époques antérieures; et un tel progrès dans des circonstances si difficiles doit nous rassurer sur l'avenir de nos industries, si la politique, cause toujours prépondérante dans l'activité de la production, ne fait pas succéder des perturbations nouvelles à deux années d'un repos presque complet. (Assentiment. — Très bien! très bien!)

Reste maintenant, à vous rendre compte le l'état de nos budgets; car, si la situation économique du pays n'a pas autant souffert qu'on aurait pu le craindre des malheurs de la guerre, cependant les finances de l'Etat auraient pu s'en ressentir gravement. Elles s'en ressentent, en effet, mais grâce aux sacrifices que vous avez courageusement consentis, le budget en cours d'exé-

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cution sera facilement soldé et nos budgets futurs se trouveront en plein équilibre.

Le budget de 1872 a été, comme vous le savez, arrêté à 2 milliards 334 millions de dépenses, le budget départemental et communal laissé à part. Ce chiffre de 2 milliards 334 millions ne sera guère dépassé; et pour la première fois, depuis longtemps, vous avez peu ou point de crédits supplémentaires. La difficulté pour l'équilibre ne consistera donc pas dans les excédants de dépenses, mais dans l'insuffisance des recettes.

Cette insuffisance avait été prévue et était facile à prévoir; car, d'une part, les impôts indispensables n'avaient pas été votés à temps, et, d'autre part, il n'était pas possible que les impôts votés donnassent tout de suite la plénitude de leur produit. Pour établir l'équilibre en finances, il ne suffit pas de le voter, il faut le réaliser par la perception; et cette seconde partie de l'oeuvre exige à la fois beaucoup de temps, de soins et de fermeté administrative.

Déjà nous avions dit, car nous n'avons rien à dissimuler, que les nouveaux impôts attribués au budget de 1872, resteraient en arrière des évaluations budgétaires, non pas que les estimations eussent été forcées, mais parce que la perception ne s'établit jamais du premier coup.

Ainsi, malgré les précautions que vous aviez prises, il est entré en sucre, cafés, cacaos, poivre, des quantités considérables de ces denrées introduites précipitamment pour les soustraire à l'augmentation de l'impôt. Parmi ces quantités, les unes représentent une moitié, les autres un quart, un cinquième de la consommation annuelle, et elles peuvent être évaluées à une cinquantaine de millions dérobés à l'impôt. Si l'on ajoute que la frontière était restée ouverte pendant plusieurs mois, par suite de l'occupation étrangère, et que la seconde ligne de douanes, supprimée il y a plusieurs années, vient à peine d'être rétablie, on aura l'explication d'une seconde perte d'environ 10 millions.

Les boissons, les tabacs ont présenté les mêmes pertes, et celles-ci principalement par la fraude. Mais l'action de ces causes devait être passagère, et tous les jours les perceptions en souffrance se rétablissent à vue d'oeil.

Ainsi, en comptant par trimestre, ce qui, en faisant disparaître les variations mensuelles, rend plus sensible la marche ascendante des recettes, on constate le progrès suivant: Pour les sucres exotiques, on voit la perte qui, d'après les évaluations budgétaires, était de 9 millions pendant le premier trimestre, descendre à 4 millions pendant le second, et à 770,000 francs pendant le troisième.

Pour les boissons, la perte qui était de 15 millions dans le premier trimestre, n'est plus que de 10 millions dans le second, et de 6 millions dans le troisième.

Le même phénomène s'est produit sur les tabacs; et à cet égard, la perte qui variait entre 4 et 5 millions pendant les premier et second tri-

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mestres, n'est plus que de 2 millions au troisième, grâce au rétablissement de la consommation d'abord ralentie, et à la répression de la fraude devenue plus efficace.

L'impôt sur le papier donne la somme promise, et, probablement, il donnera une somme plus forte.

Le droit sur les transports des chemins de fer (voyageurs et marchandises de grande vitesse) estimé à 60 millions, dépassera cette évaluation.

Tout nous fait donc espérer que les impôts votés à la fin de 1871 et au commencement de 1872 atteindront prochainement la plénitude de leur produit, et qu'à partir du 1er janvier 1873, l'équilibre, quant à ces perceptions, sera complétement obtenu.

Mais, tandis que les impôts de consommation, plus sensibles, plus difficiles à percevoir, laissaient un déficit, les impôts de l'enregistrement et du timbre, moins sujets à la fraude, donnaient une augmentation de produit d'environ 19 millions.

Quant aux impôts directs, malgré les charges accablantes de ces deux années, ils se perçoivent avec une prodigieuse facilité. Ainsi, à la fin du troisième trimestre, pour huit douzièmes échus s'élevant à 401 millions, il était rentré 427 millions, c'est-à-dire 26 millions en avance.

Néanmoins, sur l'ensemble des recettes, la fin de l'année ne pouvant compenser les retards du commencement, on peut prévoir un de saurait s'élève en ce moment à environ 132 millions. Mais ce déficit néficit qui avoir rien d'inquiétant, ni même d'embarrassant, si l'on songe aux annulations de crédit prévues pour ce même exercice et déjà réalisées sur les trois exercices précédents. Nous vous en parlerons tout à l'heure, à propos du compte de liquidation. Il suffira pour l'instant de vous dire que les annulations s'élèveront à plusieurs centaines de millions.

Il nous reste à vous faire connaître les vraisemblances que présente l'exercice de 1873.

Le budget de cet exercice vous a été soumis, et vous avez hâté votre retour afin de pouvoir le voter avant le 31 décembre prochain, de manière à être rentrés l'année prochaine dans nos habitudes financières.

Ce budget, non compris le budget communal et départemental, avait été arrêté en dépense à deux milliards 388 millions; ce qui faisait ressortir une augmentation de dépense de 53 millions sur l'année précédente.

La commission du budget vous a proposé quelques réductions, qui, suivant nous, seraient regrettables pour les services. Mais vous les apprécierez, et jusque-là les dépenses peuvent être évaluées à environ 2 milliards 374 millions.

Quelles sont les ressources pour faire face à cette dépense?

L'année dernière, la commission du budget, cherchant à diminuer la somme des impôts nouveaux jugés nécessaires pour 1872, avait fait recette de 55 millions restés libres sur le produit du premier emprunt. Une ressource

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aussi accidentelle ne pouvait évidemment figurer au budget de 1873, pas plus qu'une autre somme d'environ 3 millions également accidentelle. Les recettes de cet exercice 1873 se réduisaient donc à 2 milliards 286 millions, et elles ne pouvaient plus suffire à une dépense de 2 milliards 374 millions.

On aurait pu se borner à demander 120 millions d'impôts nouveaux, et on aurait ainsi obtenu un total de 2 milliards 406 millions de recettes, supérieur de 32 millions à la dépense. Cependant, convaincus par l'expérience que les impôts votés n'étaient pas les impôts perçus, nous vous avons demandé, non pas 120 millions d'impôts nouveaux, mais 170.

Si ces 170 millions étaient perçus intégralement et immédiatement, les ressources de 1873 s'élèveraient à 2 milliards 456 millions; ce qui procurerait, par rapport aux dépenses, un excédant d'environ 82 millions, porté même à 90 millions, d'après certaines évaluations. Dans ce cas, nous aurions, dès l'année qui va s'ouvrir, dépassé l'équilibre de 82 à 90 millions. Nous serions heureux de croire à un si brillant résultat, mais nous n'osons l'espérer, du moins pour l'exercice 1873.

Vous n'avez sans doute pas oublié le différend qui s'est élevé, à ce sujet, entre la commission du budget et nous, vers la fin de la session dernière. "Vous demandez trop, nous disait-on, et, dans la situation présente, quand on exige tant des contribuables, il est inhumain de leur demander 60, peut-être même 80 millions au delà du nécessaire!" Si vous aviez partagé l'avis de nos contradicteurs, l'impôt des matières premières serait même devenu à peu près inutile. Vous ne l'avez point pensé, et l'événement vous donne pleinement raison. Ce fort excédant d'environ 90 millions pourra se réaliser en totalité ou en partie pendant les années 1873 et 1874; mais nous n'y croyons pas pour 1873. La raison en est facile à donner.

Les impôts votés les premiers, en 1871 et 1872, sur l'enregistrement, les sucres, les cafés, les alcools, les tabacs sont restés, comme on vient de le voir, au-dessous des évaluations budgétaires. Mais ils auront bientôt traversé leur année d'épreuve et ils donneront, à partir du 1er janvier prochain, tout ce qu'on pouvait en attendre. Il en sera autrement pour les 170 millions d'impôts votés en juillet dernier et dont les matières premières forment la partie principale. Ceux-là aussi auront leur temps d'épreuves à traverser; et pour ceux-là, comme pour les autres, ce ne sera certainement pas trop d'une année pour qu'ils acquièrent leur complet développement; non pas, comme on vous l'avait annoncé, que les impôts sur les matières premières soient impossibles à percevoir; nous sommes heureux, au contraire, de vous annoncer que l'Angleterre a signé avec nous un traité qui va être soumis à vos délibérations, et dont la première condition est la perception au 1er décembre prochain de nos taxes fiscales.

Ce n'est donc pas l'impossibilité de faire accepter nos nouvelles taxes, impossibilité tant et si souvent alléguée, qui nous fait douter de la rentrée

des 170 millions d'impôts votés les derniers, mais bien l'épreuve préalable qui retarde la fécondité de tout impôt nouveau.

C'est par ce motif qu'à la session dernière, nous avons demandé, non pas 120 millions seulement, mais 170 d'impôts supplémentaires, pour être assurés que l'équilibre tant désiré, et si nécessaire à notre crédit, serait atteint.

Il eût été sans doute plus facile, plus populaire, de demander moins; mais le mieux, le plus sage, le plus sûr, c'est de ne pas flatter le pays, de lui dire la vérité, et de ne lui demander ni plus ni moins qu'il ne faut.

Ainsi donc, les impôts votés les premiers donnant, dès le 1er janvier 1873, la totalité de leur produit, et les 170 millions d'impôts votés les derniers en donnant une partie seulement, l'équilibre sera largement atteint à la fin de 1873, mais sera certainement dépassé en 1874 d'une somme impossible à évaluer aujourd'hui et qui pourra être considérable.

Nous aurions voulu vous la faire espérer pour l'année 1873; mais nous aimons mieux être vrais, et ne vous la promettre que pour le moment où elle pourra se réaliser. Dans ces limites, les résultats obtenus seront assez grands pour qu'il faille autant s'en étonner que s'en applaudir! (Oui! oui! — Très bien! très bien!)

On se préoccupe quelquefois du compte de liquidation, mais à tort. Ce compte sera chargé sans doute de beaucoup de dépenses, et notamment des indemnités votées l'année dernière pour les pays envahis; de la restitution aux départements des sommes dépensées pour les bataillons mobilisés, de plusieurs centaines de millions nécessaires pour la reconstruction du matériel de la guerre, d'une partie de la contribution payée à l'armée allemande par la ville de Paris, de quelques sacrifices enfin que vous ne pourrez manquer de faire pour la reconstruction de nos monuments incendiés, charges qui se balanceront entre six et sept cents millions. Mais les annulations de crédit, dont l'empire faisait d'avance une recette des budgets, et dont nous nous bornons à faire une ressource de leur liquidation, nous ont laissé disponibles des sommes considérables.

L'actif de ce compte, qui avait, comme ressource propre, 90 millions, prix d'une rente appartenant à l'Etat, et 35 millions d'immeubles domaniaux, trouvera en annulations de crédits, 53 millions sur le budget de 1869, 234 millions sur le budget de 1870, et 127 sur celui de 1871: total, 539 millions.

Il faut ajouter à cette somme, un reliquat qu'on veut regarder comme certain, sur les 500 millions consacrés aux frais du dernier emprunt. Si l'on s'en rapporte au reliquat du premier, il n'y aurait pas de témérité à évaluer ce nouveau reliquat à une centaine de millions au moins. On aurait donc un actif de 639 millions contre un passif de 700 millions, lequel ne sera payable que dans quatre ou cinq ans; ce qui pourrait être sans doute l'occasion d'une faible augmentation de la dette flottante, aujourd'hui réduite au-dessous de

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toutes les proportions antérieures, mais ce qui ne saurait créer la nécessité de rouvrir le Grand-Livre de la dette publique. Notre situation financière est donc aussi satisfaisante que nous pouvions le désirer et l'espérer après les années que nous venons de traverser. (Très bien! très bien!)

Nous devons, avant de finir, vous en faire connaître une circonstance importante; c'est le traité signé avec l'Angleterre, et qui va rendre certaine et immédiate la perception de nos impôts sur les matières premières.

Ce traité est le résultat des négociations longues et laborieuses, qui ont duré plusieurs mois, pour concilier des intérêts nombreux et contraires. Vous connaissez les intérêts, leur susceptibilité, leur obstination; et vous ne devez pas vous étonner qu'en Angleterre de puissantes villes de commerce aient réclamé et réclament encore contre le traité qui vient d'être signé par le gouvernement britannique. Nous croyons qu'elles ont tort, comme auront tort chez nous ceux qui réclameront contre les arrangements convenus; car, de part et d'autre, les intérêts nationaux ont été ménagés avec le plus grand soin.

Nous nous sommes arrêtés, gouvernement anglais et gouvernement français, au point où l'accord devenait impossible, et où la rupture était imminente, rupture commerciale, bien entendu, et, dans aucun cas, politique. Mais, dans l'état actuel du monde, aucun genre de dissentiment n'est à désirer entre les puissances de l'Europe. (Assentiment.) Ajoutez que le défaut d'accord entre la France et l'Angleterre rendait toute entente impossible avec les autres puissances commerciales, et que nos tarifs refusés en Angleterre auraient perdu toute chance d'être acceptés ailleurs. Voici, du reste, en peu de mots, les bases posées et adoptées à Londres et à Paris, sauf votre ratification.

Les taxes fiscales mises sur les produits étrangers, notamment sur les matières premières, et les droits compensateurs qui en sont la conséquence nécessaire, seront perçus à partir du 1er décembre prochain, sur toutes les provenances de la Grande-Bretagne, d'après le tarif voté par vous, le 26 juillet dernier.

Quant au régime définitif qui réglera nos rapports commerciaux avec l'Angleterre, voici ce qui est convenu:

Les traités et conventions de 1860 seront abolis à partir du 1er mars 1873, époque où la dénonciation devait avoir son effet; et, à l'avenir, le régime établi entre les deux nations, sera celui que partout on qualifie de "traitement de la nation la plus favorisée." Ce traitement, il faut le reconnaître est le régime naturel de notre époque.

Partout aujourd'hui, dès qu'on entreprend de négocier avec les Etats commerçants, chacun vous dit: "Traitez-nous comme vous traitez les autres." C'est en effet ce qui nous est arrivé avec l'Allemagne, lorsque tous nos arrangements commerciaux ayant été anéantis par la guerre, il a fallu adopter avec elle un principe de paix commerciale, équitable et simple. Nous lui avons promis, et elle nous a promis, de nous traiter *comme les nations les plus favorisées.* C'est le même principe qui, à l'avenir, règlera nos rapports avec la Grande-

Bretagne. Nous ferons pour la protection de notre industrie ce que nous jugerons utile; mais nous ne traiterons pas les produits anglais autrement que les produits des autres nations. L'Angleterre fera de même à notre égard.

Cependant, comme nous étions liés avec plusieurs nations par des engagements nombreux et impossibles à rompre sans accord préalable, nous avons ajourné l'application complète du principe adopté jusqu'au 31 décembre 1875, époque où expirent nos engagements, ceux notamment qui nous lient avec l'Autriche. Jusque-là, si nos taxes fiscales ou nos traités en vigueur comportaient temporairement un régime différentiel à l'égard de l'Angleterre, l'Angleterre attendrait au 31 décembre 1876 le régime égalitaire que nous avons promis de lui accorder.

Ainsi, quant au présent, perception immédiate de nos taxes fiscales, et maintien provisoire du régime existant pour les produits français en Angleterre, pour les produits anglais en France; quant à l'avenir, traitement réciproque de la nation la plus favorisée, au jour où ce régime égalitaire sera devenu possible, telles sont les conditions stipulées avec la Grande-Bretagne, et que vous ratifierez, nous l'espérons, lorsqu'elles vous auront été complétement expliquées. (Mouvements divers.)

Nous venons, messieurs, de vous faire connaître exactement la véritable situation du pays, et nous nous sommes étendus spécialement sur sa situation financière et commerciale, parce que c'est celle qui importe le plus à notre crédit, et que le crédit constitue, à côté de notre armée qui se réorganise avec une singulière promptitude, les deux éléments de notre puissance. Ainsi, après la guerre la plus malheureuse, après la guerre civile la plus terrible, après l'écroulement d'un trône qu'on avait cru solide, la France a vu toutes les nations empressées de lui offrir leurs capitaux, son crédit mieux établi que jamais, huit milliards acquittés en deux ans, la plus grande partie de ces sommes transportées au dehors sans trouble dans la circulation, le billet de Banque accepté comme argent, les impôts, quoique accrus d'un tiers, acquittés sans ruine pour le contribuable, l'équilibre financier rétabli ou près de l'être, 200 millions consacrés à l'amortissement, et l'industrie, le commerce, s'augmentant de plus de 700 millions en une seule année! Ces résultats, que nous ne saurions pas remettre sous vos yeux, s'ils n'étaient la preuve frappante de la force vitale du pays, à quoi les devons-nous, messieurs? Nous les devons à une cause, à une seule, au maintien énergique de l'ordre! (Vif assentiment sur un très grand nombre de bancs.) Oui, c'est l'ordre qui a fait qu'au lendemain de la guerre étrangère, au lendemain de la guerre civile, les soldats étrangers occupant notre sol, les ruines de nos cités fumant encore, c'est l'ordre, je le répète, énergiquement maintenu qui a pu permettre que la France donnât autant de produits, et fût entourée d'autant de crédit qu'aux époques les plus prospères de son existence. (Applaudissements sur les mêmes bancs.)

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Je ne cesserai, messieurs, de le redire, si vous n'aviez été en pleine possession de l'ordre, cette guerre sans égale en revers, ce cruel démembrement de notre territoire, ces charges effrayantes qui semblaient au-dessus de nos forces, ce trône tombé sous le poids de ses fautes, cette antique forme de la monarchie sous laquelle nous étions habitués à vivre tout à coup disparue, cette forme nouvelle de la République qui d'ordinaire inquiète les esprits dès qu'elle apparaît, tout cela fondant à la fois sur notre pays surpris, désolé, tout cela pouvait devenir un irréparable désastre! Avec l'ordre, au contraire, nos ateliers se sont rouverts, les bras ont repris leur activité, les capitaux étrangers, loin de nous fuir, les capitaux français, loin de se cacher, sont revenus vers nous, le calme a reparu avec le travail, et déjà la France relève la tête, supporte sans les oublier d'inconsolables douleurs; et, chose surprenante encore, une forme de gouvernement qui d'ordinaire la troublait profondément, commence à entrer peu à peu dans ses habitudes. . . (Acclamations d'assentiment à gauche et au centre gauche. Une voix à droite. — C'est une erreur!) — . . . ne l'empêche pas au moins de revenir à la vie, à l'espérance, à la confiance, confiance qu'elle inspire aux autres en l'éprouvant elle-même! (Nouvelle et vive adhésion à gauche)

Et puisque j'approche inévitablement des sujects brûlants du jour, je dirai à ceux qui depuis longtemps ont donné leur foi à la République, comme à l'idéal de gouvernement le plus conforme à leur pensée, et le plus approprié à la marche des sociétés modernes, je leur dirai: "C'est par vous surtout que l'ordre doit être passionnément désiré. . . (Oui! oui! Très bien! à gauche. — Exclamations et rires ironiques à droite). . . car si la République, déjà essayée à deux reprises et sans succès, peut réussir cette fois, c'est à l'ordre que vous le devrez. (C'est vrai! Très bien! au centre gauche et à gauche). Faites-en donc votre oeuvre, votre souci de tous les jours! Si l'exercice de certains droits qui appartiennent aux peuples libres peut inquiéter le pays, sachez y renoncer momentanément et faites à la sécurité publique un sacrifice qui profitera surtout à la République. S'il était possible de dire que l'ordre n'est pas un intérêt égal pour tous, j'oserais affirmer qu'il est votre intérêt essentiel à vous, et que lorsque nous travaillons à le maintenir, nous travaillons pour vous, presque plus que pour nous-mêmes." (Mouvement approbatif au centre gauche)

Messieurs, les événements ont donné la République, et remonter à ses causes pour les discuter et pour les juger, serait aujourd'hui une entreprise aussi dangereuse qu'inutile. La République existe. . .

(Voix à droite. — Non! non!

M. le baron Chaurand. — Nous avons dit le contraire à Bordeaux!)

Veuillez, messieurs, ne pas m'interrompre! Vous n'avez pas de réponse individuelle à faire à un Message à l'Assemblée nationale. (C'est vrai! Très bien!) — Je prie toutes les opinions d'attendre et de ne pas se hâter de blâmer ou d'approuver.

Je reprends.

La République existe; elle est le gouvernement légal du pays; vouloir autre chose serait une nouvelle révolution et la plus redoutable de toutes. Ne perdons pas notre temps à la proclamer; mais employons-le à lui imprimer ses caractères désirables et nécessaires. Une commission nommée par vous, il y a quelques mois, lui donnait le titre de République conservatrice. Emparons-nous de ce titre, et tâchons surtout qu'il soit mérité. (Très bien!)

Tout gouvernement doit être conservateur, et nulle société ne pourrait vivre sous un gouvernement qui ne le serait point. (Assentiment général.) La République sera conservatrice ou elle ne sera pas. (Sensation.)

(Une voix au centre gauche. — Très bien! Nous acceptons!)

La France ne veut pas vivre dans de continuelles alarmes: elle veut pouvoir dormir en repos, afin de travailler pour se nourrir, pour faire face à ses immenses charges; et si on ne lui laisse pas le repos dont elle a indispensablement besoin, quel que soit le gouvernement qui lui refusera ce repos, elle ne le souffrira pas longtemps! (C'est vrai! — Très bien! sur un grand nombre de bancs à gauche et au centre gauche.)

Qu'on ne se fasse pas d'illusions! On peut croire que, grâce au suffrage universel, et appuyé ainsi sur la puissance du nombre, on pourrait établir une république qui serait celle d'un parti! Ce serait là une oeuvre d'un jour.

Le nombre lui-même a besoin de repos, de sécurité, de travail. (C'est vrai! — Très bien! très bien!) Il peut vivre d'agitations quelques jours; il n'en vit pas longtemps. (Nouvelles et nombreuses marques d'adhésion.) Après avoir fait peur aux autres, il prend peur de lui-même; il se jette dans les bras d'un maître d'aventure, et paye de vingt ans d'esclavage quelques jours d'une désastreuse licence. (C'est vrai! c'est vrai! — Applaudissements prolongés sur un grand nombre de bancs.) Et cela, il l'a fait souvent, vous le savez, et ne croyez pas qu'il ne soit pas capable de le refaire encore. Il recommencera cent fois ce triste et humiliant voyage de l'anarchie au despotisme, du despotisme à l'anarchie, semé de hontes et de calamités, où la France a trouvé la perte de deux provinces, une dette triplée, l'incendie de sa capitale, la ruine de ses monuments et ce massacre des otages qu'on n'aurait jamais cru revoir! (Profonde émotion.)

Je vous en conjure, messieurs, n'oubliez pas ces termes si terriblement liés l'un à l'autre: République agitée d'abord: puis retour à un pouvoir qu'on appelle fort, parce qu'il est sans contrôle, et avec l'absence du contrôle, la ruine certaine et irrémédiable. (Vive et générale adhésion.) Oui, rompons la chaîne fatale qui lie ces termes funestes, et calmons au lieu d'agiter; faisons à la sécurité générale les sacrifices nécessaires, faisons même ceux qui sembleraient excessifs; et surtout ne laissons pas entrevoir le règne d'un parti . . . (Très bien! très bien! très bien!); car la République n'est qu'un contresens si, au lieu d'être le gouvernement de tous, elle est le gouvernement d'un parti quel qu'il soit. (Bravos et applaudissements sur un grand nombre

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de bancs.) Si, par exemple, on veut la représenter comme le triomphe d'une classe sur une autre, à l'instant on éloigne d'elle une partie du pays, une partie d'abord et le tout en suite. (Oui! oui! — C'est vrai!)

La Révolution de 1789 a été faite pour qu'il n'y eût plus de classes, pour qu'il n'y eût dans la nation que la nation elle-même, la nation une, vivant tout entière sous une même loi, supportant les mêmes charges, jouissant des mêmes avantages, et où chacun, en un mot, fût récompensé ou puni suivant ses oeuvres. (Très bien! et applaudissements à gauche.) En agissant ainsi, la Révolution de 1789 a établi sur la base de la véritable justice sociale proclamée et appliquée (Nouveaux applaudissements à gauche) pour la première fois sur la terre. Et c'est parce qu'il avait cette signification qu'on a pu dire du drapeau tricolore qu'il ferait le tour du monde. Longtemps, à la suite d'un conquérant, il s'est promené victorieux chez les nations européennes, mais ses oeuvres matérielles ont péri, ses oeuvres morales subsistent et sont la plus solide gloire de la France, bien plus que des victoires qui, selon les hasards de la force, passent d'un drapeau à un autre drapeau. (Mouvement.)

Quant à moi, je ne comprends, je n'admets la République qu'en la prenant comme elle doit être, comme le gouvernement de la nation, qui, ayant voulu longtemps et de bonne foi laisser à un pouvoir héréditaire la direction partagée de ses destinées, mais n'y ayant pas réussi, par des fautes impossibles à juger aujourd'hui, prend enfin le parti de se régir elle-même, elle seule, par ses élus librement, sagement désignés, sans acception de partis, de classe, d'origine, ne les cherchant ni en haut ni en bas, ni à droite ni à gauche, mais dans cette lumière de l'estime publique, où les charactères, les qualités, les défauts se dessinent en traits impossibles à méconnaître, et les choisissant avec cette liberté dont on ne jouit qu'au sein de l'ordre, du calme et de la sécurité. (Bravos et acclamations à gauche.)

Deux années écoulées sous vos yeux, sous votre influence, sous vôtre contrôle, dans un calme presque complet, peuvent nous donner l'espérance de fonder cette République conservatrice, mais l'espérance seule; et qu'on ne l'oublie pas, il suffirait de la moindre faute pour faire évanouir cette espérance dans cette désolante réalité. (Mouvement et rumeurs à droite.)

Permettez-moi d'ajouter une dernière réflexion. Ce n'est pas à la France seule que la République a besoin d'inspirer confiance, c'est au monde. Quoique vaincue, la France n'a pas cessé d'attirer, de fixer les regards des nations, qui s'alarment ou se rassurent selon ce qui se passe chez elle; et cette attention inquiète n'est qu'un hommage rendu à son influence sur les peuples. (Mouvement.)

Nous entendons dire quelquefois: La France est isolée! Et la plupart du temps, ce n'est chez les partis qui le disent qu'une illusion de leur orgueil. Les gouvernements étrangers ont eu à d'autres époques un penchant à se mêler des affaires intérieures des pays voisins; mais de cruelles expériences

les ont éclairés et ils n'y songent plus. Mais ils sont maîtres de leur estime, et personne ne peut se passer de l'estime d'autrui. L'homme a besoin de l'estime de l'homme, et les nations ont besoin de l'estime des nations. (C'est vrai! — Très bien! très bien!) Un jour vient d'ailleurs, où l'on a besoin d'appui, d'appui moral au moins, et on ne le trouve que lorsqu'on l'a mérité. (Assentiment.)

Les gouvernements étrangers sont assez éclairés aujourd'hui pour ne voir dans la France que la France elle-même. Est-elle ordonnée, elle convient à tous; est-elle non-seulement ordonnée, mais forte, elle convient à ceux qui désirent un juste équilibre entre les puissances de l'univers.

Or, j'ose affirmer que les efforts que la France a faits depuis bientôt deux ans, lui ont valu une estime dont elle a déjà reçu de nombreux témoignages. Et ce n'est pas à tel ou tel parti, à tel ou tel homme, que s'adressent ces témoignages, mais à la France, à la France seule, et à la conduite qu'elle tient pour réparer des fautes qu'elle n'a pas commises, mais qu'elle expie parce qu'elle les a laissé commettre. (Vives et nombreuses adhésions.)

Eh bien, je le déclare, parce que j'ai, par devoir, les yeux sans cesse fixés sur l'Europe, la France n'est pas isolée, et il dépend d'elle d'être au contraire entourée d'amis confiants et utiles. Qu'elle soit paisible sous la République et elle n'éloignera personne. Qu'elle soit agitée sous une monarchie chancelante, et elle verra le vide se faire autour d'elle sous une forme de gouvernement aussi bien que sous l'autre. (Vives approbations à gauche. Interruption prolongée.)

Nous touchons, messieurs, à un moment décisif. La forme de cette République n'a été qu'une forme de circonstance donnée par les événements, reposant sur votre sagesse et sur votre union avec le pouvoir que vous aviez temporairement choisi; mais tous les esprits vous attendent, tous se demandent quel jour . . . (murmures à droite), quelle forme vous choisirez pour donner à la République cette force conservatrice dont elle ne peut se passer . . .

(M. de Larochefoucauld, duc de Bisaccia. — Mais nous n'en voulons pas!

M. le vicomte de Lorgeril. — Et le pacte de Bordeaux?)

— C'est à vous de choisir l'un et l'autre. Le pays, en vous donnant ses pouvoirs vous a donné la mission évidente de le sauver, en lui procurant la paix d'abord, après la paix l'ordre, avec l'ordre, le rétablissement de sa puissance, et enfin un gouvernement régulier. Vous l'avez proclamé ainsi, et dès lors c'est à vous de fixer la succession, l'heure de ces diverses parties de l'oeuvre de salut qui vous est confiée. (Oui! Très bien! à droite.) Dieu nous garde de nous substituer à vous! Mais, à la date que vous aurez déterminée, lorsque vous aurez choisi quelques-uns d'entre vous pour méditer sur cette oeuvre capitale, si vous désirez notre avis, nous vous le donnerons loyalement

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et résolûment. (Exclamations et rumeurs à droite.) Jusque-là comptez sur notre profond attachement au pays, à vous, à cette chose si belle et si chère à nos coeurs, qui était avant nous, qui sera après nous, à la France, qui seule mérite tous nos efforts et tous nos sacrifices. (Vives et nombreuses approbations.)

Voici une grande, une décisive session qui s'ouvre devant vous; ce ne sera de notre part ni la déférence, ni le concours, ni le dévouement, ni la résolution qui manqueront au succès de votre oeuvre, que Dieu veuille bénir, rendre complète, et surtout durable, ce qui ne nous a pas encore été accordé depuis le commencement du siècle! (Longues acclamations et applaudissements réitérés au centre gauche et à gauche.)

M. le président. — L'Assemblée donne acte à M. le président de la République du Message dont elle vient d'entendre la lecture; elle en ordonne l'insertion au procès-verbal et le dépôt à ses archives.

(L'émotion produite par la lecture de M. le président de la République détermine une grande et générale agitation dans l'Assemblée. La plupart de MM. les représentants se lèvent et, sans quitter leurs bancs, se livrent par groupes à des colloques animés.

Pendant plus de vingt minutes, M. le président fait de vains efforts pour obtenir le rétablissement du silence et du calme.)

M. le président, cherchant à dominer le bruit. — Je vais donner connaissance de l'ordre du jour de la séance de demain.

M. Hervé de Saisy. — Je demande la parole sur l'ordre du jour.

M. le président. . . . . M. de Saisy a la parole sur l'ordre du jour.

M. Hervé de Saisy. — Je viens prier l'Assemblée de vouloir bien décider que la proposition, que j'ai eu l'honneur de lui soumettre sur l'appel au peuple, viendra à une de ses plus prochaines séances.

Après les paroles que nous venons d'entendre, nous pouvons prévoir qu'un gouvernement définitif sera prochainement donné à la France.

Or il est nécessaire, pour que le principe de la souveraineté nationale et notre vieille réputation de loyauté française soient sauvegardés, que ce gouvernement arrive par la grande porte et non par l'escalier de service. (Bruyantes exclamations à gauche. — Rires approbatifs et applaudissements à droite.)

Un membre à gauche. — C'est un vieux cliché!

M. Audren de Kerdrel monte à la tribune.

M. le président. — Vous demandez la parole, monsieur de Kerdrel?

M. Audren de Kerdrel. — Oui monsieur le président.

M. le président. — Mais sur l'ordre du jour seulement.

Plusieurs voix à droite. — Parlez! parlez! monsieur de Kerdrel! (Rumeurs à gauche.)

M. le président. — Veuillez faire silence, messieurs! M. de Kerdrel usera de son droit, mais seulement de son droit.

M. Audren de Kerdrel. — Je n'ai jamais fait autre chose.

Autre membre: On ne conteste pas l'ordre du jour.

M. de Larochefoucauld, duc de Bisaccia, s'avançant vers la tribune. — Nous protestons contre le Message du président de la République. (Exclamations à gauche. — Très bien! et applaudissements sur plusieurs bancs à droite.)

M. le marquis de Gouvello et quelques autres membres de la droite qui se sont avancés dans le couloir à droite de la tribune. — Nous protestons tous.

M. Audren de Kerdrel est toujours à la tribune.

A droite: Parlez! parlez!

M. le président. — Permettez-moi d'achever avant tout le règlement de l'ordre du jour.

M. de Saisy n'a pas demandé la mise à l'ordre du jour de sa proposition à un jour précis, il a demandé seulement qu'elle soit placée prochainement à l'ordre du jour.

Je ne peux pas consulter l'Assemblée sur cette question, dans cette forme.

Quand M. de Saisy voudra, lors d'un règlement d'ordre du jour, préciser sa demande, et réclamer, pour sa proposition, la mise à un ordre du jour déterminé, je consulterai l'Assemblée. (Marques d'assentiment.)

Il n'y a pas de contestation sur la fixation de l'ordre du jour de demain? . . .

Il reste ainsi réglé.

M. Audren de Kerdrel dépose une proposition ou une demande ainsi formulée;

"J'ai l'honneur de demander qu'une commission soit nommée pour l'examen du Message de M. le président de la République." (Très bien! à droite.)

M. Audren de Kerdrel. — Je demande l'urgence.

M. le président. — M. de Kerdrel a la parole sur l'urgence.

M. Audren de Kerdrel. — Messieurs, je demande à dire simplement un mot en faveur de la prise en considération de l'urgence. Je serai ainsi dans le règlement, et j'espère aussi rester dans les convenances.

Je n'ai pas l'habitude de me laisser aller à des entraînements irréfléchis: je ne m'associe donc à aucune protestation contre le Message de M. le Président de la République; je n'ai pas à le juger aujourd'hui. Le véritable juge, à l'appréciation duquel je me soumettrai, comme chacun de nous doit s'y soumettre, c'est l'Assemblée. (Très bien! à droite. — Mouvements divers.)

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Voix à gauche: Et le pays!

Voix à droite: L'Assemblée, c'est le pays!

M. Audren de Kerdrel. — Je sollicite un jugement, une appréciation libre et non passionnée.

C'est ce que je demande à mes collègues de la gauche comme à mes collègues de la droite; c'est ce que je demande à l'Assemblée tout entière.

Il y a, messieurs, ce me semble — c'est le seul mot que je me permettrai sur le Message, et j'espère que vous ne le trouverez pas excessif, — il y a dans le Message quelques expressions qui seraient de nature à établir peut-être une équivoque, un malentendu. Nous serions peut-être, d'après M. le président de la République, plus avancés sur le terrain constituant que je ne le croyais, et quand il n'y aurait que ce doute à éclaircir, je crois que ma proposition aurait son opportunité, et j'espère que vous voudrez bien en déclarer l'urgence. (Très bien! très bien! à droite.)

M. le président de la République. — L'honorable M. de Kerdrel vient de faire appel à toutes les parties de cette Assemblée pour demander que le Message ait un juge. Je regrette qu'il ne se soit pas adressé au gouvernement aussi, il en aurait reçu cette réponse empressée: que le gouvernement lui-même en demande un. Le gouvernement a la prétention de pouvoir être jugé par l'Assemblée et par le pays, et il ne l'aurait pas, que force lui serait bien d'accepter de tels juges.

Quant à moi, je désire que l'Assemblée juge, juge froidement, en se livrant à un examen approfondi sur toutes les parties du Message, et je désire que ce jugement ait lieu devant le pays tout entier; car je ne me sentirais pas la conscience en repos, si, à la tête du gouvernement, je ne sais pour combien de temps, je pouvais me conduire dans un sens que l'Assemblée et le pays n'auraient pas approuvé.

Quant à moi, je puis me tromper; si je me trompe, on me le prouvera et je baisserai volontiers la tête devant la majorité de cette Assemblée et devant la majorité du pays. (Très bien! très bien! à gauche. — Rumeurs à droite.)

Mais je dis la majorité. Je puis me tromper, et je serais coupable si j'avais parlé comme je l'ai fait ne m'étant pas trompé; mais j'ai cru, en parlant comme je l'ai fait, parler dans le sens de la majorité véritable. (Oui! oui! Très bien! à gauche. — Bruit à droite.)

M. de Larochefoucauld, duc de Bisaccia. — Vos serments!

M. le président de la République. — Je m'unis donc à M. de Kerdrel pour demander un froid jugement, comme il l'a dit, un jugement réfléchi. (Très bien! très bien! à gauche.)

M. Lambert de Sainte-Croix. — C'est le rétablissement de l'Adresse!

M. le président. — Monsieur de Kerdrel, veuillez rédiger votre proposition d'une manière définitive.

(M. de Kerdrel monte au fauteuil de M. le président, et, après s'être

entretenu avec lui, écrit, sur son bureau, la nouvelle rédaction de sa proposition.)

M. le président. — Je relis la proposition de M. de Kerdrel:

"J'ai l'honneur de demander qu'une commission soit nommée pour présenter à l'Assemblée nationale un projet de réponse au Message de M. le président de la République." (Exclamation à gauche.)

M. Audren de Kerdrel. — Il paraît que la nouvelle rédaction fait difficulté. (Bruits divers.)

Messieurs, vous venez de remarquer un léger changement de rédaction dans ma proposition. (Oui! oui! — Mouvements divers.)

Permettez, messieurs! laissez-moi m'expliquer avec franchise. Vous croyez évidemment que j'ai attaché à ce changement une très grande importance, sans cela vous n'auriez pas réclamé.

Eh bien, s'il y a un coupable, c'est M. le président de l'Assemblée. (Exclamations à droite.) C'est sous sa dictée que j'ai écrit ma nouvelle rédaction . . .

M. le président. — Parfaitement!

M. Audren de Kerdrel. — Par conséquent, messieurs, vos soupçons se sont trompés d'adresse. (Oh! oh!)

Je ne tiens pas à la forme, ou plutôt j'y tiens en ce sens que je veux qu'elle soit le plus convenable possible. Si vous préférez la première rédaction, j'y reviendrai d'autant plus facilement qu'elle est l'expression spontanée de ma pensée. (Oui! oui! à droite. — Mouvements divers.)

M. le président. — Il est très vrai que c'est sur mon observation que l'honorable M. de Kerdrel a modifié la rédaction de sa proposition.

La proposition avait pour but l'examen du Message de M. le président de la République. (C'est cela!) Le Message de M. le président de la République est une communication du pouvoir exécutif à l'Assemblée nationale. Il ne peut être l'objet d'un examen . . . (Réclamations à droite) ou d'une censure, mais seulement d'une réponse délibérée par l'Assemblée nationale. (Mouvements en sens divers.)

La raison, la nature des choses, l'usage constant sous tous les gouvernement représentatifs, n'ont jamais admis, au sujet d'un Message, autre chose qu'une réponse du pouvoir législatif (C'est vrai! — Très bien!)

Je ne pouvais, sans faire une observation à son auteur, laisser déposer une proposition paraissant impliquer une censure du Message du président de la République. (Mouvements divers.)

Je le répète, le Message est une communication de pouvoir à pouvoir.

Plusieurs voix à droite: L'un des pouvoirs est le délégué de l'autre!

M. le président. — M. le président de la République s'adresse à l'Assemblée nationale; l'Assemblée ne peut que faire une réponse, si elle le juge convenable. (Assentiment à gauche. — Mouvement prolongé.)

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M. de Kerdrel demande que sa proposition soit déclarée urgente. Je mets aux voix la déclaration d'urgence . . (Interruption à gauche.)

M. Prax-Paris. — Veuillez la relire. C'est très grave! (Non! non! — Bruit.)

M. Larrieu. — Mais c'est en contradiction avec la proposition déposée hier par M. Dahirel! On ne peut dire blanc et noir à deux jours de distance.

M. le président. — M. Dahirel a fait une proposition: jusqu'à ce qu'elle ait été admise, les choses restent en l'état. (Approbation à gauche. — Dégénations à droite.)

M. Fresneau. — Je demande la parole.

M. le président. — Vous aurez satisfaction dans quelques jours; mais je ne puis exécuter une proposition avant qu'elle ait été acceptée. Je dois rester dans la procédure suivie depuis deux ans par l'Assemblée jusqu'à ce que cette procédure ait été modifiée. (Mouvements et bruits divers.)

Je consulte l'Assemblée sur l'urgence de la proposition de M. de Kerdrel.

(Une première épreuve a lieu.)

M. le président. — Une partie du bureau demande que l'épreuve soit recommencée. (Réclamations sur quelques bancs à droite.)

Veuillez reprendre vos places, messieurs.

(Des députés qui se tenaient debout dans les couloirs regagnent leurs bancs et une nouvelle épreuve a lieu.)

M. le président. — L'urgence est déclarée. (Exclamations à gauche.)

Je voudrais bien savoir qui peut se permettre ces protestations inconvenantes contre la décision du bureau? (Marques d'approbation sur un grand nombre de bancs.)

Les bureaux ne sont pas encore constitués. Après leur constitution, l'Assemblée fixera le jour auquel elle voudra renvoyer dans les bureaux l'examen de la proposition de M. de Kerdrel.

Voix à droite: A demain! à demain!

M. le président. — Je répète que les bureaux ne sont pas constitués.

(La séance est levée.)

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FRANKREICH. — Bericht der Dreissiger-Commission erstattet in der Sitzung der Nationalversammlung vom 21. Februar 1873.

Rapport de M. le Duc de Broglie.

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Messieurs, le vote rendu par vous le 29 novembre dernier est présent à tous les esprits. Une proposition vous était faite à l'effet de nommer une commission de quinze membres pour présenter un projet de loi relatif à la responsabilité ministérielle.

A la suite d'une discussion mémorable et sur la demande de M. le garde des sceaux, cette proposition a subi une modification grave; le nombre des commissaires a été doublé et leur mission étendue.

Ce ne sont plus quinze, mais trente de vos membres qui ont été chargés de régler tout à la fois et les attributions des pouvoirs publics en général, et les conditions de la responsabilité ministérielle.

La commission à qui cette tâche a été confiée m'a fait l'honneur de me choisir pour son rapporteur. Je viens vous rendre compte de ses premiers travaux.

Le mandat dont vous nous aviez investis était très vaste. Nous avons dû nous préoccuper d'abord d'en fixer l'étendue et les limites.

Nous n'aurions voulu paraître à vos yeux ni le restreindre arbitrairement pour rentrer ainsi par une voie détournée dans la proposition plus étroite que vous aviez écartée, ni, en l'élargissant outre mesure, usurper des pouvoirs qu'il n'était pas dans votre intention de nous confier.

L'examen des termes de votre résolution nous a convaincus que vous nous aviez permis, presque prescrit, de vous proposer le moyens de pourvoir non-seulement à l'amélioration des pouvoirs publics existants, mais à la création d'instructions nouvelles, si elles étaient jugées nécessaires.

Cette conviction résultait pour nous du cours même de la discussion qui a précédé votre vote, et dans laquelle, à plusieurs reprises, l'établissement d'une seconde Chambre législative a été mis en avant comme un des moyens de résoudre les problèmes politiques que ce débat avait soulevés.

Mais notre droit allait-il jusqu'à traiter devant vous ces grandes questions de gouvernement que le commun et patriotique accord de tous les partis est convenu à Bordeaux de tenir en réserve pour des temps meilleurs? Etions-nous un comité de constitution proprement dit, chargé de proposer à la France une forme de gouvernement définitive, et de vous suggérer un usage de ce pouvoir souverain qui vous appartient et qu'a formellement consacré la loi du 31 août 1871? Nous ne l'avons pas pensé, messieurs, et vous ne le penserez pas davantage.

Du moment où vous n'aviez pas dit explicitement que telle était votre

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intention, nous ne pouvions pas vous la supposer. De telles questions ne peuvent être tranchées par voie d'extension et de prétérition. De tels mandats ne doivent pas être assumés, quand ils ne sont pas explicitement conférés.

Vous approuverez cette réserve et vous en trouverez l'expression dans le considérant qui figure en tête du projet que nous vous apportons. Il y est stipulé formellement que, quelles que soient les dispositions de ce projet, nous n'avons pas entendu rentrer dans le domaine de votre pouvoir constituant, dont l'intégrité vous est réservée.

I. — Relation des pouvoirs publics. — Responsabilité ministérielle.

Notre tâche restait encore assez grande, et pour la parcourir avec ordre nous avons cru devoir songer d'abord au plus pressé, et nous occuper en premier lieu des réformes urgentes réclamées par le vice principal du régime mal défini sous lequel nous vivons aujourd'hui.

Ce vice, messieurs, vous le connaissez; il se trahit par un fait douloureux: c'est le retour fréquent des conflits qui s'élèvent entre cette Assemblée souveraine et le chef éminent à qui elle a confié le pouvoir exécutif. Depuis deux ans, ces conflits se sont renouvelés à propos soit des dispositions importantes de vos grandes lois organiques, soit d'incidents de la politique générale, et quand ils éclatent, l'Assemblée se trouve placée dans la plus cruelle alternative.

M. le président de la République présente trop dignement la France malheureuse aux yeux de l'Europe, pour que nous puissions l'entendre sans alarme, parler d'abandonner le mandat que nous lui avions confié (Rumeurs sur quelques bancs à droite. — Très bien! très bien! à gauche et au centre gauche); mais l'Assemblée a son mandat aussi qu'elle tient de la France et qu'elle ne peut déserter. Il est pénible pour elle d'être réduite trop souvent à choisir entre deux partis, dont l'un consisterait à laisser descendre du pouvoir celui qu'elle y a placé et veut y maintenir, et l'autre à incliner des convictions très arrêtées devant les vues personnelles du chef de l'Etat.

Pour bien comprendre le trouble que cette situation jette dans l'esprit public, il suffit de se rappeler tant de scènes pleines d'émotions dont nous avons été témoins; il n'est pas un de nous, à quelque parti de cette Assemblée qu'il appartienne, qui n'ait été mis un jour à la rude épreuve, soit d'ébranler par son vote le repos précaire dont jouit la France, soit de consacrer par son silence des résolutions contraires à ses convictions; nous en attestons le souvenir de tous nos collègues. (Marques d'assentiment sur plusieurs bancs.)

Dieu nous garde de reprocher à M. le président de la République la vivacité de ses convictions, qui tient chez lui au sentiment du devoir; mais il doit aussi comprendre la profondeur des nôtres et ne peut s'offenser qu'on lui dise que la pression exercée par son talent, par son caractère et par le sentiment des périls publics pèse trop fortement sur nous et compromet la liberté de nos délibérations.

Et, ce qui rend le mal plus difficile à supporter, c'est que ces épreuves ne sont pas toujours causées par les véritables et profonds sujets de dissidence. C'est quelquefois à la suite d'une discussion confuse, à une heure tardive, pour une question mal posée, pour un amendement mal rédigé, qui s'explique le lendemain, pour un des mille incidents de la vie parlementaire en un mot, que la destinée du pays a été mise au hasard, et que devant l'étranger en armes sur le territoire, la France aurait pu apprendre en se réveillant qu'elle n'avait plus de gouvernement qui la représentât.

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Que ce danger ait été senti de bonne heure dans cette Assemblée, c'est ce qu'atteste la loi du 31 août 1871, qui porte la trace de quelques essais impuissants pour le prévenir. En attendant, la nécessité d'y pourvoir est chaque jour plus évidente. Il serait impossible, comme on nous l'a quelquefois proposé, d'ajourner le remède jusqu'à une organisation plus régulière et plus complète de nos institutions actuelles. C'est maintenant qu'il faut aviser; car demain, peut-être, il serait trop tard. Avant de terminer son mandat, cette Assemblée a encore à procéder aux oeuvres législatives les plus importantes. Elle doit achever d'organiser l'armée, les services administratifs, l'enseignement public à tous ses degrés, déterminer les conditions des libertés municipales et du droit électoral; le gouvernement lui-même la presse d'entrer largement dans la voie des réformes constitutionnelles.

A mesure aussi qu'approche l'heure de la libération du territoire, la politique intérieure, un peu effacée par les complications douloureuses de la politique étrangère, devient la légitime préoccupation de tous. Chacun sent qu'il faut que le gouvernement prenne une attitude de plus en plus nette et énergique en face de l'audace, chaque jour croissante, des passions antisociales. (Très bien! très bien! au centre.)

L'Assemblée peut-elle abdiquer son droit d'intervenir avec sa pleine liberté dans toutes ces questions capitales et d'y faire prévaloir sa pensée tout entière? Veut-elle s'exposer à voir dans ces jours critiques son action paralysée par un scrupule patriotique qui, en altérant la sincérité de ses décisions, en affirme l'autorité aux yeux des populations?

Comment s'étonner alors que la pensée soit venue à un grand nombre de nos collègues que, dans la plupart des pays libres, le choses ne se passent point ainsi; que ce n'est pas le chef de l'Etat lui-même, mais ses ministres seuls qui soutiennent le poids et subissent les conséquences des discussions politiques; que ces ministres, pris eux-mêmes parmi les membres du Parlement, en sympathie avec les opinions de sa majorité, entrent rarement en conflit avec l'Assemblée dont ils émanent, et que, si ce cas arrive, leur échec, suivi de leur retraite, n'entraîne pas le bouleversement de l'Etat tout entier.

C'est ce qu'on nomme, par une expression consacrée dans le régime parlementaire, la "responsabilité ministérielle," si souvent réclamée par M. le président de la République lui-même, sous le gouvernement précédent, comme la première des libertés nécessaires d'un pays. (Léger mouvement.)

Comment s'étonner que l'idée d'organiser, sur des bases plus larges la responsabilité ministérielle (déjà posée en principe dans la loi du 31 août 1871) soit née de la nécessité même de la situation que je viens de dépeindre et du désir de substituer à des questions de gouvernement qui mettent tous les intérêts en péril, de simples questions de cabinet qui n'agitent que les régions élevées de la politique.

Malheureusement, il faut bien le reconnaître, le régime républicain, devenu actuellement le nôtre par le fait des événements, ne comporte pas dans sa plénitude l'application de cette garantie si simple du régime parlementaire. Dans la monarchie constitutionnelle, le chef de l'Etat est inviolable; la responsabilité des actes de son gouvernement ne peut jamais remonter jusqu'à lui.

Cette situation, élevée au-dessus des débats des partis, permet d'exiger de lui qu'il abandonne à ses ministres la direction de la politique, et au Parlement, par voie indirecte du moins, la désignation de ses ministres.

Le chef élu d'un Etat républicain est responsable, en vertu du principe même de la République. On ne peut lui demander de se désintéresser au même degré des débats de la politique dont la conséquence peut l'atteindre. C'est ainsi qu'une plus grande latitude accordée au pouvoir personnel du chef de l'Etat aux dépens des droits du parlement est la déduction rigoureuse du principe républicain. Ce qui explique peut-être pourquoi dans un pays comme le nôtre, où le pouvoir exécutif, disposant de tant de moyens d'action, est toujours porté à sortir de sa sphère, la République a deux fois, par une pente brusque et rapide, tourné à la dictature. (Très bien! à droite. — Bruit et rumeurs à gauche.)

A cette difficulté inhérente au régime républicain, notre situation présente en ajoute une autre qui complique la première. Dans le système républicain comme avait essayé de l'établir la Constitution de 1848, et tel qu'il prévaut dans le nouveau monde, le chef de l'Etat ne fait partie d'aucune Assemblée délibérante et sa voix n'est entendue à aucune tribune.

S'il communique avec les Assemblées, c'est par voie de message écrit, qu'il ne vient pas lire lui-même. Ainsi diminuent avec les points de contact les occasions de conflit et disparaissent au moins dans les rapports du chef de l'Etat et des Assemblées, ces prises, ces luttes personnelles dont la vivacité aigrit et envenime si aisément les dissentiments politiques.

Mais M. le président de la République est sorti de vos rangs et vous a répété à plusieurs reprises que son mandat de député lui était plus cher que celui qu'il tient de vos suffrages. Il ne renoncerait pas au droit d'exercer ce talent oratoire qui est un de ses plus certains et plus légitimes moyens d'ascendant. Or, du moment où il est présent à nos débats, il y est le premier et presque le seul représentant de sa politique. Les ministres disparaissent derrière lui, et leur responsabilité, couverte par la sienne, ne paraît plus que nominale.

Tels étaient, messieurs, les obstacles que nous rencontrions dans la voie où l'opinion générale de cette Assemblée, et le texte même de la résolution du 29 novembre nous faisaient un devoir d'entrer. Nous ne nous sommes pas découragés devant ces difficultés que nous avions prévues. Nous avons pensé que s'il ne nous était pas possible de tout faire, ce n'était pas une raison pour ne rien essayer.

Nous avons pensé que si l'on ne pouvait demander à M. le président de la République de renoncer entièrement à sa responsabilité pour l'effacer derrière celle de ses ministres, on pouvait réclamer de lui qu'il en restreignît l'application — comme le désirait la loi du 31 août 1871 — à des cas rares et solennels, intéressant seulement les plus hautes questions de gouvernement et que, dans le cours habituel de la politique, il consentît à vous laisser seuls en présence de son conseil des ministres.

Nous avons pensé également que si l'on ne pouvait peut-être exiger de lui qu'il abstînt entièrement de se faire entendre à la tribune, il était possible en quelque sorte que son intervention y fût moins fréquente, assujettie à certaines formalités qui la rendraient plus solennelle et soustraite surtout aux orages des luttes oratoires et parlementaires.

C'est là, en résumé, l'esprit des trois articles de loi que nous vous proposons. Nous n'en avons point imaginé l'idée principale; nous l'avons recueillie, pour ainsi dire, sur vos bancs, et comme de la voix publique de cette Assemblée. A peine votre commission était-elle réunie, que divers projets lui étaient soumis par plusieurs de nos collègues appartenant aux divers côtés de cette Chambre. La plupart aboutissaient à peu de chose près au système que nous avons adopté. Les projets des honorables MM. Marcel Barthe et Eugène Tallon s'en rapprochent en particulier sur ce point spécial presque dans les termes; et le dernier nous ayant été indiqué par M. le président de la République lui-même comme celui qui lui paraissait le plus propre à concilier nos désirs avec les droits qu'il croyait devoir se réserver, cette indication nous a suffi pour que nous le prissions pour base de nos délibérations.

Dans le système que nous vous demandons d'adopter, les communications de M. le président de la République avec l'Assemblée ne doivent avoir lieu en principe que par le moyen d'un Message écrit. Ce n'est que par exception qu'il peut venir se faire entendre lui-même à la tribune.

Ces exceptions sont régies par des règles différentes que nous examinerons tout à l'heure, suivant qu'il s'agit pour lui de prendre part à la discussion des lois ou aux débats de politique générale naissant d'interpellations adressées au ministres ou de pétitions rapportées à l'Assemblée.

Mais, dans tous les cas, il ne peut être entendu qu'après en avoir prévenu l'Assemblée un jour d'avance et par une communication solennelle. Après s'être fait entendre, le président se retire, et la délibération qui suit son discours, renvoyée à une séance ultérieure, n'a jamais lieu en sa présence. Aucune discussion n'est jamais engagée avec lui.

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Le but de ces dispositions est évident. En opposant à l'intervention du président dans nos débats des difficultés, des retards de diverse nature, nous entendons l'engager respectueusement à user de cette intervention le moins possible, dans des cas exceptionnellement graves, où il trouve l'intérêt de l'Etat et son propre honneur engagés, et, dans le cours ordinaire des affaires, à laisser ses ministres agir et parler sous leur responsabilité.

En nous bornant à l'entendre et en nous interdisant de discuter avec lui, nous avons le dessein de prévenir tous les conflits qui peuvent naître inopinément du tour imprévu que prend un débat passionné, comme il s'en élève aisément dans une Assemblée nombreuse.

Nous voulons enlever à nos dissentiments s'ils venaient malheureusement à se reproduire, tout ce que peut y ajouter l'entraînement des luttes d'éloquence.

Nous voulons nous préserver, en matière si grave, de toute surprise, laisser le temps et la réflexion agir, dans l'espoir que le calme permettra toujours de trouver ces éléments de conciliation qu'écartent, au contraire, la vivacité et l'aigreur d'un débat contradictoire.

Ce sont cependant, messieurs, ces intentions si droites et si simples, toutes conçues dans un esprit de pacification et pour faire face à un péril évident, que l'injustice des partis a représentées comme tendant à gêner par une complication ridicule, on a presque dit humiliante, la liberté d'action du chef de l'Etat, que sais je? comme des efforts tentés par des médiocrités impuissantes pour se soustraire à la supériorité incontestable de sa puissance oratoire.

Si j'ai réussi à faire comprendre de quel ordre d'idées le projet est né, vous aurez répondu d'avance à ces critiques. Sans doute ces formalités ne sont pas exemptes de complication. Mais la complication tient au problème qui nous était posé, non à la solution que nous y donnons.

La solution serait plus claire et plus simple si nous avions en face de nous un chef d'Etat inviolable comme en Angleterre ou, comme en Amérique, un président qui ne tînt pas à être orateur. (Sourires et rumeurs sur divers bancs. — Interruption prolongée.)

Sans doute aussi, en éloignant M. le président de la partie ardente de nos délibérations, nous lui demandons le sacrifice des succès qu'il n'a jamais cessé de remporter dans les joutes oratoires. Nous devons lui savoir gré de la bonne grâce avec laquelle il se résigne à cette privation. (Légères rumeurs sur plusieurs bancs.)

Mais, outre que les armes dont il se prive restent toutes entières entre le mains de ses ministres qui sauront en faire usage, ces succès facilement obtenus étaient-ils pour lui sans compensation? Ne l'exposaient-ils pas à quitter la haute situation qui convient au premier représentant d'un pays malheureusement divisé en partis divers et qui doit les dominer tous?

Une discussion même est-elle possible, quand les adversaires ne sont pas sur un pied de parfaite égalité? Et chacun de nous peut-il s'y mettre avec le chef de l'Etat?

Nous conservons à l'illustre M. Thiers l'usage de la partie, si non la plus haute, du moins la plus inimitable de son talent.

La France ne sera pas privée de ces exposés lumineux d'affaires. . . . (Rires ironiques sur quelques bancs à droite. — Très bien! très bien! au centre et à gauche.) où la lucidité de la forme laisse apercevoir toute la solidité du fond. Ce que nous lui enlevons ne peut rien ôter à la renommée de l'orateur et ajoutera peut-être à l'autorité morale du chef de l'Etat.

M. le vicomte de Lorgeril. — M. Thiers est le chef du gouvernement et non pas le chef de l'Etat!

Voix nombreuses: N'interrompez pas!

M. le rapporteur. — Quant à l'idée que nous avons voulu amoindrir la situation du chef de l'Etat, nous la repoussons hautement. Le projet de loi, par le texte même, la repousse encore bien plus que nous.

Le projet qui limite un des droits actuels du président lui en accorde, en effet, un autre en échange qu'il ne possédait pas et qu'il peut sembler étrange dans la rigueur des principes, de voir conférer par une Assemblée à son délégué.

Pour compenser le désavantage que nous imposons au Président en lui retirant le droit de suivre jusqu'au moment du vote la délibération des lois, nous lui accordons le droit considérable d'en suspendre pour un temps l'effet. Il pourra exercer cette faculté dans les lois non soumises à trois lectures, en provoquant une nouvelle délibération; dans les lois qui sont assujetties à la formalité d'un triple débat, en retardant de deux mois l'intervalle qui doit s'étendre entre la seconde et la troisième lecture. Ce délai, d'abord fixé à un mois comme dans la constitution de 1848, a été étendu jusqu'à deux, sur la demande de M. le président.

Un chef d'Etat républicain, au moment où il est investi du droit d'arrêter l'effet des résolutions d'une Assemblée souveraine, ne pourrait, sans injustice, se plaindre d'être abaissé.

Cette prérogative, dans l'étendue où le projet de loi l'accorde, a paru même excessive à plusieurs de nos collègues. Un amendement de l'honorable M. de La Bassetière proposait de ne l'accorder, au moins pour les lois urgentes, que dans le cas où le président aurait négligé de se faire entendre dans la première délibération. Un autre, de l'honorable M. La Caze, proposait que l'Assemblée eût la faculté de la suspendre dans les cas extraordinaires, comme ceux où l'Assemblée aurait pourvu par des résolutions au maintien de ses droits et de sa sûreté propre.

Toutes ces propositions pouvaient se défendre par des raisons très légitimes. C'est le désir d'attester à M. le président que les restrictions imposées

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à son droit de député ne partaient d'aucun esprit de défiance qui les a fait écarter.

Il est du reste demeuré entendu que les résolutions prises par l'Assemblée pour le maintien de ses droits et de sa sûreté étant non des lois, mais des actes du pouvoir souverain, n'étaient, comme cela a été reconnu formellement en 1848, assujetties à aucune formalité de promulgation.

Il ne reste plus, pour vous faire entendre l'économie de cette partie du projet de loi, qu'à expliquer les distinctions que le projet établit entre le mode d'intervention du président dans la discussion des lois, et celui dont il doit user dans le débat des interpellations et des pétitions politiques.

En matière législative, il est entendu toutes les fois qu'il le désire, sous la seule condition de prévenir l'Assemblée la veille par un Message. Il pourra même reparaître nécessaire de rétablir des faits dénaturés ou des arguments contestés de son premier discours. Aucune difficulté n'a été élevée à cet égard dans la commission, bien qu'évidemment le désir de la presque unanimité de la commission soit que M. le président ait recours le plus rarement possible à l'usage, et surtout à l'usage réitéré de cette faculté.

Un plus long et plus sérieux débat a été soulevé à propos des interpellations et pétitions politiques. Il n'en pouvait être autrement, car c'est dans les questions que soulèvent ces incidents parlementaires que se débat d'ordinaire la ligne politique du gouvernement. C'est donc là que l'Assemblée, pour pouvoir imprimer à cette ligne la direction qui lui convient doit désirer réserver la plus grande part possible à la responsabilité ministérielle; mais, c'est là aussi, d'autre part, que le président de la République pouvant trouver d'un moment à l'autre sa responsabilité personnelle engagée, peut être le plus jaloux de réserver le droit de se faire entendre.

La rédaction que nous vous proposons est le résultat d'une transaction offerte par M. le président et adoptée par la majorité de votre commission, qui croit, là encore, avoir poussé jusqu'à l'extrême limite son désir d'éviter toute occasion de dissentiment.

Ainsi elle a accordé, non sans l'opposition d'une assez forte minorité, au président de la République le droit d'être entendu quand il le désirerait (toujours avec les formalités convenues) dans les interpellations ou pétitions qui ne porteraient que sur les affaires extérieures. La raison principale qui l'a déterminée à lui laisser cette latitude, c'est que M. le président de la République est toujours à nos yeux le négociateur chargé de racheter la liberté et de réparer les malheurs de la France. Cette qualité là dure en lui, et prime toute autre, tant que le dernier soldat prussien n'a pas quitté le territoire. Jusque-là toute notre politique extérieure est subordonnée à ce point capital, qui reste confié aux soins ardents et dévoués de M. le président de la République. Nous ne voulons pas que rien puisse venir le gêner, de près ou de loin, dans ce qui touche ce précieux fardeau.

En matière de politique intérieure, la même raison n'existe pas, et il est

clair que si, toutes les fois qu'un ministre est interpellé sur un fait de son administration ou le conseil des ministres tout entier sur un acte du gouvernement, le président peut venir interposer son autorité pour le défendre, l'ombre même de la responsabilité ministérielle a disparu.

M. le président de la République a compris et admis cette distinction, et il est convenu lui-même que son intervention devait se borner au cas où la discussion soulevée engagerait, soit la politique générale du gouvernement, soit sa responsabilité personnelle.

Ce principe admis, comment déterminer les cas où l'interpellation, de particulière et personnelle au ministre, devient générale et s'élève jusqu'au président? Et, si aucune règle générale en ce genre n'est possible, à qui remettre au moins l'appréciation de chaque cas particulier? C'est sur quoi plusieurs systèmes différents avaient été proposés, soit par nos honorables collègues MM. Bertauld, Delacour et Duchâtel, soit, en dehors de la commission, par l'honorable M. Broët.

La majorité de votre commission, se conformant en cela à l'amendement de M. Broët, pensait que cette appréciation ne devait appartenir qu'à l'Assemblée elle-même, et qu'un vote de cette Assemblée pouvait seul décider quelle portée elle voulait donner à la question. La raison principale était que le président et ses ministres, n'étant les uns et les autres, à des titres divers, que des délégués de l'Assemblée, c'était à elle à faire entre eux les parts de responsabilité et à dire sur qui des deux elle voulait faire porter d'abord son examen, puis l'expression, soit de son approbation, soit de son mécontentement.

M. le président de la République a déclaré ne pouvoir ainsi laisser borner par une autorité étrangère à lui la part qu'il avait à prendre dans la responsabilité des affaires publiques. Il a pensé qu'un vote précédé peut-être d'une discussion dans l'Assemblée sur le point préalable engagerait nécessairement la discussion du fond sans qu'il fût présent pour l'éclairer.

Il nous a proposé de remettre la décision au conseil des ministres tout entier, qui ferait part à l'Assemblée de son avis délibéré. Cet avis, d'après une addition proposée par MM. Sacase et d'Haussonville, devra être communiquée à l'Assemblée par le vice-président du conseil.

La majorité de votre commission s'est rangée au désir de M. le président de la République avec regret (du moins chez plusieurs), afin de donner une preuve nouvelle de son esprit de conciliation. Elle a été frappée aussi de cet argument présenté par un de ses membres, que la responsabilité qu'on ne laisserait pas prendre au président à la tribune, il pourrait toujours la revendiquer par un Message écrit, et qu'ainsi le conflit (qu'avant tout nous voulons fuir) ne serait pas évité. Une minorité considérable a pourtant maintenu jusqu'au bout l'autre système, et l'amendement de M. Broët, reproduit sous une autre forme plus générale par M. Lucien Brun, et défendu par lui avec une rare vigueur logique, a gardé des partisans nombreux et convaincus.

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La délibération du conseil des ministres qui doit précéder l'entrée du président à l'Assemblée doit avoir lieu, dit l'article, avant l'ouverture de la discussion. Ce point, qui était resté dans l'ombre, a été réglé dans le cours de la discussion par un amendement qui n'a paru à personne de ceux qui l'ont voté contraire à la pensée de M. le président de la République. On a demandé, cependant, ce qui arriverait si, dans le cours du débat (comme cela s'est vu plus d'une fois), la question, d'abord particulière et limitée, s'étendait et s'élevait jusqu'à toucher des points que le président aurait le droit de traiter lui-même.

Il a été répondu sans hésiter que le président de l'Assemblée était chargé d'empêcher la discussion de s'égarer, et, en ce cas surtout, ne faillirait pas à son devoir. En tout cas le ministre interpellé a toujours le droit de se refuser à répondre aux questions qui ne lui ont pas été posées d'avance, et de renvoyer ses explications à un débat spécial fixé à une séance ultérieure.

Nous espérons que cette réponse si simple dissipera les ombrages que ce point secondaire avait soulevés.

Tel est, messieurs, le plan que nous vous soumettons. Nous regrettons de n'avoir pu trouver un moyen ni plus simple ni plus complet, dans l'état présent de nos lois, d'assurer les conditions de la responsabilité ministérielle, que vous nous aviez chargés de rechercher.

Nous croyons cependant qu'un pas sérieux est fait pour garantir la paix et la liberté de nos délibérations. La pratique le démontrera, nous l'espérons, et fera rendre justice à nos efforts. (Très bien! sur plusieurs bancs.)

II. — Art. 4. Seconde chambre. — Réforme électorale. — Organisation et Transmission des Pouvoirs.

Il eût été naturel de nous en tenir là, et suivant l'usage de toutes nos grandes commissions qui ont reçu par vos ordres une série de questions à examiner, attendre que la suite de nos travaux fût arrivée à maturité pour vous en entretenir en temps utile.

Mais la majorité de votre commission avait à coeur de faire voir que, si elle a cru devoir d'abord pourvoir à ce qui lui paraissait le plus urgent, les relations des pouvoirs publics existants, elle n'avait jamais entendu négliger l'autre, à savoir le règlement de l'avenir et la création d'institutions nouvelles. Votre désir en tout genre est une loi pour elle.

Aussi, en tout état de cause, elle vous aurait fait connaître que dans l'une de ses premières séances, une sous-commission a été nommée avec la charge expresse de s'occuper des nouveaux pouvoirs publics ou des nouvelles institutions dont il pouvait être utile, dans la condition présente de notre pays, de conseiller la création.

A cette sous-commission ont été renvoyés de nombreux projets émanés de l'initiative de nos collègues, entre autres le projet signé par plus de cent

députés qui signalaient à notre attention, sans les résoudre eux-mêmes, un certain nombre de problèmes à étudier.

Les propositions plus précises présentées par nos honorables collègues, MM. Marcel Barthe, Eugène Tallon, Louis Passy, le comte de Chambrun, Bienvenüe, Pierre Lefranc, le comte de Douhet, le marquis d'Andelarre, Cézanne et Eymard Duvernay, projets qui se recommandent tous par des qualités différentes et dont quelques-uns présentent l'ensemble d'une véritable constitution politique.

En jetant un coup d'oeil sommaire sur les diverses propositions, et avant de les soumettre, comme nous devons le faire, à un examen détaillé, un point commun entre elles, à travers leurs dissemblances, a dû frapper tout de suite la sous-commission.

Il n'en est pas une seule qui ne réclame, dans un délai plus ou moins prochain, la division de la représentation nationale en deux branches et la création d'une seconde Chambre. Nos collègues ne sont d'accord entre eux ni sur le mode de composition ni sur les attributions de cette seconde Chambre. Ils ne le sont pas non plus sur le moment où ils désirent qu'elle prenne séance.

Quelques-uns, comme MM. Marcel Barthe et Louis Passy, voudraient qu'elle entrât en fonction immédiatement à côté de cette Assemblée même, et avec un certain nombre d'éléments extraits de son sein. D'autres, plus nombreux, l'ajournent jusqu'au terme de notre séparation.

Mais, sur le principe lui-même, leur concert est complet, et cela seul nous faisait un devoir de mettre ce point en première ligne parmi nos préoccupations.

La sous-commission est arrivée rapidement à deux conclusions: la première, c'est qu'il n'était pas possible que cette Assemblée, ayant reçu de ses électeurs une souveraineté indivisible, en opérât elle-même le partage entre ses membres; que dès lors la création d'une seconde Chambre était inadmissible du vivant de celle-ci, pour ainsi dire, et pour opérer concurremment avec elle; la seconde, c'est que le principe de la seconde Chambre se recommandait par trop de hautes autorités, par une trop constante expérience des pays libres, pour qu'elle dût hésiter à y adhérer avant même d'en avoir étudié l'application.

Elle a donc posé en principe qu'une seconde Chambre serait créée après notre séparation, et, afin de passer du principe à la pratique, elle a décidé qu'elle prierait M. le garde des sceaux de venir dans son sein pour exposer à cet égard les idées du gouvernement.

Nous en étions là, messieurs, et voilà ce dont nous comptions vous informer dans ce rapport. M. le président de la République, dans une des conférences que nous avons eues avec lui, a désiré quelque chose de plus: il a demandé que le principe de la seconde Chambre et l'engagement de la créer déjà voté par votre sous-commission vous fussent présentés dans le projet

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actuel par une disposition législative, afin de recevoir de vos suffrages une sanction formelle.

Cette demande, nous devons le dire, était imprévue.

Il n'est pas dans les usages des Assemblées françaises de poser des principes dans les lois avant de leur faire subir l'expérience d'un projet détaillé d'application.

Un tel empressement peut avoir en beaucoup de cas plus d'un inconvénient. Nous y avons consenti cependant, et pour entrer dans les vues de M. le président, et pour rendre hommage au principe même qu'il nous demandait de recommander ainsi à vos suffrages.

La portée de ce principe, en effet, même en dehors de toute application, est grande et salutaire. Si vous l'adoptez, par cela seul que vous direz qu'à l'avenir la représentation nationale consistera dans deux Chambres égales en droit, mais inégales en quantité numérique, différentes par leur composition, nommées par des électeurs et choisies parmi des éligibles différents, vous protesterez hautement contre le principe brutal et démagogique de la souveraineté pure et absolue du nombre. (Murmures à l'extrême gauche. — Approbation sur divers bancs.)

Par cela seul que vous annoncerez votre dessein d'établir un pouvoir dont l'entrée (quel que soit le mode qu'on y assignera) devra, dans votre pensée, être réservé aux citoyens distingués par l'intelligence, par l'éducation, par les services rendus, par les grands intérêts sociaux qu'ils représentent, vous attesterez que l'égalité civile et politique reconnue par nos lois se distingue, à vos yeux, de ce nivellement grossier qui conteste et veut annuler toutes les supériorités légitimes. (Rires sur quelques bancs à l'extrême gauche. — Très bien! très bien! au centre et à droite.)

Par cela seul que vous vous montrerez désireux de créer une institution qui dans tous les pays du monde a été destinée à servir de garantie aux intérêts conservateurs, vous attesterez combien est profond à vos yeux le besoin de chercher partout des défenseurs pour la société menacée contre le torrent des innovations téméraires. (Nouvelles marques d'approbation au centre et à droite.)

C'est ainsi d'ailleurs que M. le président de la République a qualifié l'institution dont il désire que nous dotions la France en lui donnant le nom significatif de "Chambre de résistance". (Interruptions à gauche.)

M. Hervé de Saisy. — Chambre de résistance à la souveraineté nationale. (Exclamations diverses.)

M. le président. — Veuillez ne pas interrompre.

M. le rapporteur. — C'est un mot utile à prononcer dans un temps où, en présence des attaques audacieuses des ennemis de la société, tant de courages défaillent.

Nous vous offrons avec empressement l'occasion de l'entendre sortir une fois de plus de la bouche du gouvernement à cette tribune et de l'appuyer

de votre énergique adhésion. (Très bien! très bien! sur un grand nombre de bancs.)

C'est par ces motifs élevés que nous avons cru pouvoir vous demander de consacrer dès à présent, dans une disposition législative, la création future d'une seconde Chambre. Une telle disposition, une fois adoptée, en appelait nécessairement une autre: c'est la révision de la loi qui détermine les conditions de l'électorat politique.

Si, à l'avenir, en effet, la représentation nationale doit être divisée en deux branches, la loi électorale de 1849, la seule qui soit en vigueur aujourd'hui, faite en vue d'une Assemblée unique et souveraine, ne pourra évidemment être maintenue dans toutes ses parties.

D'ailleurs, la nécessité de modifier cette loi, défectueuse sous tant de rapports, est depuis longtemps reconnue, et en ce moment même une de vos commissions prépare ce travail de révision avec un zèle et des lumières dont les noms de ceux qui la composent sont de sûrs garants. Nous avons donc dû aborder ce point important, objet de la vive préoccupation du pays, dans nos conférences avec le gouvernement, et vous apprendrez avec plaisir que nous nous sommes rencontrés en parfait accord de sentiments avec lui.

Décidé, comme nous, à respecter le principe du suffrage universel, qui est la base de nos institutions, il nous a déclaré de lui-même qu'il sentait la nécessité d'en assurer la sincérité, en cherchant de meilleures garanties pour constater l'identité, la capacité civile, la moralité du citoyen. Ces garanties consistent à ses yeux, comme aux nôtres, dans la durée prolongée et plus qu'annuelle d'un domicile fixe et connu.

Nous avons recueilli ces assurances de la bouche même de M. le président de la République, qui nous a permis d'en prendre acte.

L'accord, si heureusement établi entre le gouvernement et nous sur tant de points essentiels, a pourtant failli être troublé à la dernière heure par un dissentiment plus apparent que réel. Bien qu'ici encore la dissidence ait disparu devant des explications loyales et que l'esprit de conciliation ait prévalu, je dois vous rendre brièvement compte de cet incident, qui a causé quelque émotion dans le public.

A l'une de nos dernières séances, le gouvernement, par l'organe de M. le garde des sceaux, nous a demandé de ranger parmi les mesures législatives auxquelles nous vous proposerions de procéder, outre la création d'une seconde Chambre et la révision de la loi électorale, "une loi sur l'organisation du pouvoir exécutif pendant le temps qui s'écoulera entre la dissolution de l'Assemblée actuelle et la constitution des deux nouvelles Assemblées."

Cette demande était conçue dans des termes qui semblaient nous faire un devoir d'imprimer à l'ensemble de nos travaux une extrême précipitation.

Après mûre réflexion, nous nous sommes vus contraints de refuser toute adhésion au désir du gouvernement qui, dans la forme qu'il lui avait

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donnée, semblait borner arbitrairement les devoirs comme les droits de cette Assemblée.

Il nous était difficile, en premier lieu, de bien comprendre en qui pourrait consister cette sorte d'interrègne auquel on nous demandait avec instance de pourvoir.

Cette Assemblée est souveraine; la souveraineté ne peut ni périr ni poser dans le vide. Nous garderons le dépôt du pouvoir pendant l'élection jusqu'à l'installation de nos successeurs, et tant que l'Assemblée dure, dure aussi le mandat de M. le président de la République, qui, par la loi du 31 août 1871, n'a pas d'autre terme que le nôtre.

L'imagination ne saisit donc, dans cette transmission directe de la souveraineté, aucun intervalle véritablement appréciable, et, dût-il s'écouler un petit nombre de jours entre le moment où la nouvelle représentation nationale entrera en fonctions et celui où, régulièrement constituée, elle pourrait exercer tous ses droits, un règlement de police applicable à un délai si court méritait-il bien le grand nom qu'on lui donnait de "loi d'organisation du pouvoir exécutif?"

Et vous, messieurs, investis, comme vous l'êtes, d'un mandat souverain, et chargés de répondre à tous les voeux du pays, pouviez-vous déclarer d'avance que vous ne feriez rien de plus pour organiser le pouvoir exécutif qu'une disposition précaire de cette nature?

Etiez-vous résignés à laisser passer le temps, et, en quelque sorte, couler l'eau jusqu'au dernier soupir de votre vie légale, sans prendre soin du lendemain et sans léguer autre chose après vous à la France qu'un souvenir intérimaire de quelques heures ou de quelques jours?

Faire un tel aveu d'impuissance, d'urgence en quelque sorte et par une déclaration hâtive, n'était-ce pas signer votre déchéance et mettre à l'ordre du jour votre dissolution prochaine? Telle était bien l'impression ressentie par l'esprit public et propagée par tous les commentaires de la presse.

Pour peu que nous l'eussions confirmé par le moindre assentiment, il n'en fallait pas davantage pour effacer des esprits le souvenir de la nuit du 14 décembre et les effets de l'éloquence écrasante de M. le garde des sceaux. (Très bien! très bien! — Rumeurs sur plusieurs bancs à gauche.)

Notre décision négative, communiquée avec franchise au gouvernement, l'a trouvé, je dois le dire, aussi contrarié que nous de la fausse interprétation qui avait dénaturé sa pensée et aussi pressé de la détruire. Après quelques pourparlers échangés, il nous a soumis de lui-même une rédaction différente destinée à former l'article 4 du projet et ainsi conçu:

"L'Assemblée ne se séparera pas sans avoir statué: 1° sur l'organisation et le mode de transmission des pouvoirs législatif et exécutif; 2° sur la création d'une seconde Chambre; 3° sur la loi électorale."

Vous jugerez comme nous, messieurs, que cette proposition nouvelle, exempte des inconvénients de celle que nous avions justement repoussée, vous

maintient, par sa largeur même, dans la plénitude de votre dignité et de vos droits. Rien ici n'est plus stipulé ni sur le délai dans lequel devront être rendues les lois qu'on attend de vous, ni sur la portée des dispositions qu'elles devront contenir.

L'ordre même de vos travaux n'est pas indiqué, car le premier paragraphe contient les deux autres, qui n'en sont que le développement, et la création d'une seconde Chambre aussi bien que la loi électorale sont évidemment comprises dans les termes généraux "d'organisation du pouvoir législatif." Votre liberté reste donc entière, et tous vos pouvoirs sont intacts.

L'article proposé ne ferme la porte à aucune des solutions, soit provisoires, soit définitives, que comportent les grands problèmes politiques dont vous êtes saisis. Vous restez maîtres à tout instant, soit, si vous le jugez opportun dans votre sagesse, d'user du pouvoir constituant qui vous appartient et auquel aucune atteinte n'est portée, même par une voie détournée, soit, si vous le trouvez plus utile dans un intérêt de paix sociale, de prolonger la trêve des partis et d'étudier seulement les combinaisons diverses qui peuvent améliorer le présent sans engager l'avenir. A vrai dire, l'article, dans ses termes généraux, n'a qu'un tort: c'est d'être superflu; car la France vous connaît, messieurs; elle a vu votre dévouement à l'oeuvre et vous n'avez pas besoin de lui dire que, quelles que soient vos divisions de partis et vos préférences politiques, vous ne vous séparerez pas sans vous être souvenus d'elle, en laissant le vide dans ses institutions et sa destinée abandonnée au hasard. (Très bien! très bien!)

Mais si vous n'avez pas besoin de faire, à la face du pays, cette déclaration dictée par le plus simple élément de bon sens et de patriotisme, vous n'avez pas non plus de raisons pour vous y refuser. Nous n'avons donc pas fait difficulté d'adopter, sous cette forme si profondément modifiée, l'article proposée par le gouvernement.

Le sens, d'ailleurs, en a été nettement déterminé par la discussion de divers amendements qui en ont précédé l'adoption. Votre collègue M. Bérenger nous invitait à procéder dès à présent à l'organisation de la république et à épuiser ainsi, au profit de cette forme de gouvernement, en la rendant définitive, votre droit de constituer. Dans une séance précédente, M. Arago nous avait pressés de prolonger les pouvoirs du président actuel de la République, au moins jusqu'à l'installation de la future représentation nationale.

La majorité de votre commission a écarté, presque sans débat, ces deux propositions. Elle n'a pas cru pouvoir adopter d'avantage celle qui était introduite, à un autre point de vue, par M. Amédée Lefèvre-Pontalis, et qui vous engageait seulement à déclarer qu'avant de vous séparer, vous donneriez à la France des institutions définitives. Nous n'avons rien voulu stipuler qui limitât dans un sens ou dans un autre, ni pour aujourd'hui, ni pour demain, la liberté des résolutions que pourra vous suggérer votre amour éclairé du bien public. (Très bien!)

Une disposition additionnelle, introduite par M. Ricard, et qui a reçu l'adhésion du gouvernement, exprime le voeu que la proposition des lois à faire en vertu de l'article 4 émane de l'initiative du gouvernement. Il était assez naturel de lui remettre cette tâche, puisque c'était lui surtout qui avait paru pressé de la voir accomplie.

Peut-être aussi, dans le vaste champ ouvert par l'article 4, il serait à craindre que l'initiative parlementaire ne s'égarât, et les pensées du gouvernement sur ces grands sujets, quand bien même, sur certains points, elles s'écarteraient des nôtres, pourront du moins servir de base et de centre aux études de vos commissions.

Cet exposé ne paraîtra pas trop long, messieurs, s'il a réussi à vous faire comprendre avec quel esprit persévérant de conciliation a été poursuivi le travail, souvent ingrat, de votre commission. Nommée au lendemain d'une grande crise politique, elle a eu à coeur, non de la rouvrir, mais de la terminer.

Elle ne s'est pas laissé rebuter dans cette tâche par l'aridité de discussions que le public a plus d'une fois accusées de lenteur. Puisque le résultat a été obtenu, vous ne regretterez pas le temps qu'il nous a coûté.

Vous ne rechercherez pas, et le pays ne recherchera pas plus que vous quelle a été, de part et d'autre, la mesure des concessions ou des sacrifices. Laissons les commentaires envenimés à ceux qui fondent leurs espérances sur la discorde des pouvoirs publics. (Très bien! très bien!)

C'est dans leur union, au contraire, que la France place son espoir. Cette union cimentée par des sacrifices et des efforts communs, va bientôt effacer les dernier vestiges de l'invasion étrangère. C'est au même accord, employé avec énergie à la protection de ses intérêts conservateurs, que la France veut devoir le bienfait d'échapper au fléau non moins redoutable de l'anarchie. Le projet de loi n'a eu d'autre pensée que de rendre cet accord plus facile. Nous voulons éspérer que le vote qui le terminera n'aura pas d'autre caractère. (Très bien! très bien! — Applaudissements sur divers bancs.)

Maintenant, messieurs, voici le texte du projet de loi que vous propose votre commission:

Projet de loi voté par la commission.

"L'Assemblée nationale,

"Réservant dans son intégrité le pouvoir constituant qui lui appartient, mais voulant apporter des améliorations aux attributions des pouvoirs publics, décrète:

"Art. 1er. L'article 1er de la loi du 31 août 1871 est modifié ainsi qu'il suit:

"Le président de la République communique avec l'Assemblée par des Messages qui, à l'exception de ceux par lesquels s'ouvrent les sessions, sont

lus à la tribune par un ministre. Néanmoins il sera entendu par l'Assemblée dans la discussion des lois lorsqu'il le jugera nécessaire, et après l'avoir informée de son intention par un Message.

"La discussion à l'occasion de laquelle le président de la République veut prendre la parole est suspendue après la réception du Message, et le président sera entendu le lendemain, à moins qu'un vote spécial ne décide qu'il le sera le même jour. La séance est levée après qu'il a été entendu, et la discussion n'est reprise qu'à une séance ultérieure. La délibération a lieu hors la présence du président de la République.

"Art. 2. Le président de la République promulgue les lois déclarées urgentes, dans les trois jours, et les lois non urgentes dans le mois après le vote de l'Assemblée.

"Dans le délai de trois jours, lorsqu'il s'agira d'une loi non soumise à trois lectures, le président de la République aura le droit de demander par un Message motivé une nouvelle délibération.

"Pour les lois soumises à la formalité des trois lectures, le président de la République aura le droit, après la seconde, de demander que la mise à l'ordre du jour pour la troisième délibération ne soit fixée qu'après le délai de deux mois.

"Art. 3. Les interpellations ne peuvent être adressées qu'aux ministres, et non au président de la République.

"Lorsque les interpellations adressées aux ministres ou les pétitions envoyées à l'Assemblée se rapportent aux affaires extérieures, le président de la République aura le droit d'être entendu.

"Lorsque ces interpellations ou ces pétitions auront trait à la politique intérieure, les ministres répondront seuls des actes qui les concernent. Néanmoins si, par une délibération spéciale, communiquée à l'Assemblée avant l'ouverture de la discussion, par le vice-président du conseil des ministres, le conseil déclare que les questions soulevées se rattachent à la politique générale du gouvernement et engagent ainsi la responsabilité du président de la République, le président aura le droit d'être entendu dans les formes déterminées par l'article 1er.

"Après avoir entendu le vice-président du conseil, l'Assemblée fixe le jour de la discussion.

"Art. 4. L'Assemblée nationale ne se séparera pas avant d'avoir statué:

"1° Sur l'organisation et le mode de transmission des pouvoirs législatif et exécutif;

"2° Sur la création et les attributions d'une seconde Chambre ne devant entrer en fonction qu'après la séparation de l'Assemblée actuelle;

"3° Sur la loi électorale.

"Le gouvernement soumettra à l'Assemblée des projets de lois sur les objets ci-dessus énumérés."

Nr. 5041.

FRANKREICH. — Gesetz vom 13. März 1873, betreffend die Befugnisse der öffentlichen Gewalten und die Bedingungen der Ministerverantwortlichkeit.

Loi ayant pour objet de régler les attributions des pouvoirs publics et les conditions de la responsabilité ministérielle.

Nr. 5041. Frankreich. 13. März 1873.

L'Assemblée nationale a adopté,

Le Président de la République française promulgue la loi dont la teneur suit:

L'Assemblée nationale,

Réservant dans son intégrité le pouvoir constituant qui lui appartient, mais voulant apporter des améliorations aux attributions des pouvoirs publics,

Décrète:

Art. 1er. La loi du 31 août 1871 est modifiée ainsi qu'il suit:

Le Président de la République communique avec l'Assemblée par des messages, qui, à l'exception de ceux par lesquels s'ouvrent les sessions, sont lus à la tribune par un ministre.

Néanmoins, il sera entendu par l'Assemblée dans la discussion des lois, lorsqu'il le jugera nécessaire, et après l'avoir informée de son intention par un message.

La discussion à l'occasion de laquelle le Président de la République veut prendre la parole est suspendue après la réception du message, et le Président sera entendu le lendemain, à moins qu'un vote spécial ne décide qu'il le sera le même jour. La séance est levée après qu'il a été entendu, et la discussion n'est reprise qu'à une séance ultérieure. La délibération a lieu hors la présence du Président de la République.

Art. 2. Le Président de la République promulgue les lois déclarées d'urgence dans les trois jours, et les lois non urgentes dans le mois après le vote de l'Assemblée.

Dans le délai de trois jours, lorsqu'il s'agira d'une loi non soumise à trois lectures, le Président de la République aura le droit de demander, par un message motivé, une nouvelle délibération.

Pour les lois soumises à la formalité des trois lectures, le Président de la République aura le droit, après la seconde, de demander que la mise à l'ordre du jour pour la troisième délibération ne soit fixée qu'après le délai de deux mois.

Art. 3. Les dispositions de l'article précédent ne s'appliqueront pas aux actes par lesquels l'Assemblée nationale exercera le pouvoir constituant qu'elle s'est réservé dans le préambule de la présente loi.

Art. 4. Les interpellations ne peuvent être adressées qu'aux ministres, et non au Président de la République.

Lorsque les interpellations adressées aux ministres ou les pétitions envoyées à l'Assemblée se rapportent aux affaires extérieures, le Président de la République aura le droit d'être entendu.

Lorsque ces interpellations ou ces pétitions auront trait à la politique intérieure, les ministres répondront seuls des actes qui les concernent. Néanmoins si, par une délibération spéciale, communiquée à l'Assemblée avant l'ouverture de la discussion par le vice-président du conseil des ministres, le conseil déclare que les questions soulevées se rattachent à la politique générale du Gouvernement et engagent ainsi la responsabilité du Président de la République, le Président aura le droit d'être entendu dans les formes déterminées par l'article 1er.

Après avoir entendu le vice-président du conseil, l'Assemblée fixe le jour de la discussion.

Art. 5. L'Assemblée nationale ne se séparera pas avant d'avoir statué:

1° Sur l'organisation et le mode de transmission des pouvoirs législatif et exécutif;

2° Sur la création et les attributions d'une seconde Chambre ne devant entrer en fonctions qu'après la séparation de l'Assemblée actuelle;

3° Sur la loi électorale.

Le Gouvernement soumettra à l'Assemblée des projets de loi sur les objets ci-dessus énumérés.

Délibéré en séance publique, à Versailles, le 13 mars 1873.

Le président,
Signé: Jules Grévy.

Les secrétaires,
Signé: Francisque Rive, Albert Desjardins,
E. de Cazenove de Pradine, L. Grivart,
Félix Voisin.

Le Président de la République,
A. Thiers.

Le garde des sceaux, ministre de la justice,
J. Dufaure.

Nr. 5042.

FRANKREICH. — Resolution der Nationalversammlung vom 17. März 1873 betreffend Dankesvotum an den Präsidenten der Republik und die Regierung anlässlich des deutsch-französischen Räumungsvertrages.

Résolution de l'Assemblée nationale portant que des remercîments sont adressés à M. le Président de la République et au Gouvernement, et déclarant que M. Thiers a bien mérité de la patrie.

Nr. 5042. Frankreich. 17. März 1873.

L'Assemblée nationale a adopté la résolution suivante:

L'Assemblée nationale,

Accueillant avec une patriotique satisfaction la communication qui vient de lui être faite, et heureuse d'avoir ainsi accompli une partie essentielle de sa tâche, grâce au concours généreux du pays,

Adresse ses remercîments et ceux du pays à M. Thiers, Président de la République, et au Gouvernement, et déclare que M. Thiers a bien mérité de la patrie.

Délibéré en séance publique, à Versailles, le 17 mars 1873.

Le président,
Signé: Jules Grévy.

Les secrétaires,
Signé: Vicomte Blin de Bourdon, Albert Desjardins, E. de Cazenove de Pradine, Félix Voisin, L. Grivart.

Nr. 5043.

FRANKREICH. — Sitzung der Nationalversammlung vom 23. Mai 1873. — Interpellation über die letzten Ministerveränderungen und die innere Politik der Regierung.

Présidence de M. Buffet.

Nr. 5043. Frankreich. 23. Mai 1873.

M. Thiers, *président de la République,* est au banc du Gouvernement.

M. Dufaure, *garde des sceaux, vice-président du conseil des ministres.* Je demande la parole.

M. le président. La parole est à M. le vice-président du conseil.

M. le vice-président du conseil. Messieurs, avant l'ouverture de la discussion et conformément à l'article 4 de la loi du 13 mars 1873, j'ai l'honneur de communiquer à l'Assemblée la délibération suivante du conseil des ministres:

"Le conseil des ministres, après en avoir délibéré, déclare que l'interpellation déposée dans la séance du 19 de ce mois sur le bureau de l'Assemblée, se rattachant à la politique générale du Gouvernement et engageant ainsi la responsabilité du Président de la République,

"Le Président exercera le droit de prendre part à la discussion, droit qui résulte pour lui des dispositions de l'article 4 de la loi du 13 mars 1873.

"Délibéré à Versailles, le 20 mai 1873."

Suivent les signatures de tous les membres du conseil: MM. Dufaure, Léon Say, Rémusat, général de Cissey, Teisserenc de Bort, de Fourtou, Waddington, Casimir Perier, A. Pothuau, Bérenger.

M. le président. Il est donné acte à M. le vice-président du conseil de la communication qu'il vient de faire à l'Assemblée. || L'ordre du jour appelle la discussion de l'interpellation d'un grand nombre de députés concernant les dernières modifications ministérielles et la politique intérieure du Gouvernement. || La parole est à M. le duc de Broglie.

M. le duc de Broglie. Messieurs, l'interpellation déposée par nous, et qui a reçu l'adhésion de plus de trois cents signataires, porte sur deux choses: la nécessité reconnue par ceux qui interpellent de voir à la tête des affaires, dans la gravité de la situation présente, un cabinet dont la fermeté rassure le pays; l'impatience éprouvée par le mêmes députés de savoir si le cabinet qui est sur ces bancs, avec les modifications qu'il a subies, répond à cette nécessité. || Je ne serais pas tout à fait sincère si je n'ajoutais pas que le doute, un doute profond, existe à cet égard dans leur esprit. . . (Mouvement) et que la discussion présente a pour but de savoir s'il peut être dissipé. Quelle est donc, messieurs, la gravité de cette situation et dans quel état cette situation trouve-t-elle l'administration de la France? || Aux yeux des signataires, la gravité de la situation se résume en ceci: la possibilité révélée par les dernières élections de voir arriver, dans un délai plus ou moins prochain, le parti radical à la tête des affaires par la voie du suffrage universel, tel qu'il est organisé aujourd'hui. La possibilité du triomphe du parti radical, voilà ce qui constitue à leurs yeux la gravité de la situation. || Si le parti radical était un parti politique comme ceux qui divisent ordinairement les Assemblées, le triomphe de ce parti sur un autre serait une de ces vicissitudes auxquelles tous doivent s'attendre et dont personne ne doit ni s'effrayer ni s'indigner. Mais le parti radical n'est pas un parti politique ordinaire; c'est avant tout et surtout, chacun le sait, un parti social. || Je n'essaierai point de déterminer par des definitions théoriques qui seraient toujours contestables, et qui venues de ma part seraient certainement contestées, quelles sont les doctrines du parti radical. Je me bornerai à dire, — et ceux qui représentent ici le parti radical ne le contesteront probablement pas, — qu'aux yeux de ce parti, dans la France, telle que la révolution de 89 l'a faite, avec le suffrage universel, avec l'égalité civile absolue, avec la liberté religieuse, il y a encore à accomplir de profondes réformes, presque des révolutions

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sociales. C'est, par conséquent, un parti qui menace la société actuelle dans ses bases, pour les refondre, sinon pour les détruire. Voilà ce qui rend son triomphe si redoutable pour cette société même, qui ne paraît pas généralement pressée de se soumettre à ce travail de refonte, qui pourrait être un travail de destruction. (Très-bien! très-bien! à droite et au centre droit.) || Mais dans des temps de révolution comme le nôtre, les doctrines ne restent pas longtemps à l'état de théorie; elle se sréalisent dans les faits et s'incarnent dans les hommes. || Or, il y a pour nous un grand fait qui domine toute notre situation intérieure, et qui l'éclaire encore de ses sinistres lueurs, c'est le souvenir de cette épouvantable insurrection qui a menacé, au début de cette Assemblée, la souveraineté nationale, et que cette Assemblée a dû, comme le héros de la fable, étouffer dans son berceau. || Quels ont donc été les rapports du parti radical avec la commune de Paris? Je ne veux calomnier personne; je ne dirai pas qu'il ait approuvé toutes les doctrines ou justifié tous les crimes de la Commune de Paris; je dirai simplement, — et je ne crois pas que ses représentants le contestent, — que dans ce débat entre l'Assemblée et la Commune de Paris, le parti radical a pensé que les torts étaient partagés; il a pensé que si la Commune de Paris avait des prétentions exagérées, elle avait aussi des griefs légitimes, et que si nous avions, nous, des droits, nous les avions dépassés dans l'application. || Que telle soit l'opinion du parti radical, que ce soit son opinion sur les faits d'il y a deux ans, cela n'est pas douteux. Les noms seuls des nouveaux collègues que le parti radical envoie dans cette enceinte le démontrent jusqu'à l'évidence. || Notre nouveau collègue, M. Barodet, est venu exprès à Paris pour opérer une pacification entre la Commune et l'Assemblée et s'est plaint, à son retour, dans un document public, d'avoir trouvé une égale ardeur de dissentiment, un égal défaut d'esprit de conciliation à Paris et à Versailles. || Notre nouveau collègue, M. Ranc, a siégé dans la Commune de Paris; il a pris part à quelques-uns des ses faits les plus sinistres, et, sans un scrupule tardif et un ralentissement de la justice qui n'est pas encore expliqué, il aurait figuré parmi les accusés. (Vifs applaudissements à droite et au centre droit.) || Notre nouveau collègue, M. Lockroy, a donné sa démission de membre de cette Assemblée, où il siégeait déjà, pour ne pas prendre part à sa résistance. || Enfin, le chef avoué, quoique pas toujours obéi, du parti radical, l'honorable M. Gambetta, parlant dernièrement à Belleville des souvenirs de la Commune, s'est plaint que Paris eût été livré à toutes les horreurs d'une réaction furieuse. || Ajouterai-je enfin, pour compléter le tableau, que sinon un de nos collègues lui-même, au moins un de ses patrons, un de ceux qui, dans les réunions publiques, appuyaient sa candidature, un procureur de la République, démissionnaire volontaire seulement de l'année dernière, M. Andrieux, ami et soutien du docteur Guyot, un des correspondants de l'honorable M. Barthélemy Saint-Hilaire — (Rires ironiques à droite) s'exprimait ainsi:

"Je n'hésite pas à dire que c'est l'Assemblée qui a fait l'insurrection du 18 mars, et qu'elle est responsable du sang et des ruines qui ont marqué le passage de la Commune."

Voilà, messieurs, quelle est l'opinion, non pas de tous les membres, mais d'une grande fraction du parti radical sur les souvenirs effroyables que je vous rappelle. Je résume cette opinion dans ces mots: qu'à leurs yeux les torts sont partagés et qu'il y a une réparation à faire à la Commune de Paris. || De là, messieurs, le programme que le parti radical a développé dans les dernières élections, programme qui se réduit à trois termes: dissolution immédiate de cette Assemblée qui a été le boulevard de la société contre la Commune, amnistie de tous les condamnés de la Commune, levée immédiate de l'état de siége qui est une précaution contre le retour de pareilles horreurs. On n'y joint pas le réarmement de la garde nationale; mais je pense que cette conséquence des mêmes principes y est également comprise. || Imaginez, messieurs, avec ces doctrines d'un côté, avec cette appréciation de faits récents, et si récents (car ils sont bien récents, puisque à la date d'hier il y a eu deux ans seulement que l'armée française est entrée dans Paris), avec cette appréciation de l'autre, ce que peut être le triomphe légal du parti radical! Imaginez une Assemblée dont la majorité serait radicale, rentrant dans Paris pour réformer la société, aux acclamations des amnistiés de la Commune! Imaginez-vous le spectacle qu'un tel événement donnerait. J'ose dire que cela serait la revanche légale de la Commune de Paris... (Oui! oui! Très-bien! très-bien! à droite et au centre droit.) || Voilà, messieurs, l'éventualité qui, aperçue par la société, l'a pénétrée de terreur, et qui résume, pour nous, la gravité de la situation dont parle l'interpellation. Naturellement, nous avons dû nous demander ce que pensait, dans une pareille éventualité, ce que préparait pour la prévenir, ce que jugeait nécessaire et convenable le Gouvernement qui a reçu de nous le dépôt du pouvoir exécutif. || Loin de moi l'idée que ce Gouvernement, représentant l'Assemblée et régissant la France en son nom, ait pour les doctrines du parti radical le plus léger degré de sympathie; les conséquences que ces doctrines emporteraient le menacent comme nous, au même degré, plus que nous peut-être, puisqu'il a eu l'honneur de marcher à notre tête pour triompher de ces nouveaux barbares. || Mais le danger que je signale n'est pas nouveau. Il a apparu le 27 avril et le 11 mai sous une forme vive et pressante, que personne n'a pu méconnaître, et nous l'avions déjà aperçu plusieurs fois à l'horizon, sous des traits moins apparents, et par des démarches successives nous l'avions signalé au Gouvernement. Nous avions alors cru remarquer dans le sein du Gouvernement, au sujet de ses rapports avec le parti radical, deux tendances, deux manières de voir, deux manières de se conduire qui étaient en conflit tacite l'une avec l'autre, conflit qui, dans ces derniers temps, s'est accusé tout à fait. Il nous avait toujours semblé qu'il y avait dans le Gouvernement une tendance franchement, ouvertement hostile aux doc-

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trines comme aux pratiques du parti radical, décidée à user, pour le combattre, de toute l'étendue des moyens légaux, des moyens matériels que la loi permet, de la force morale dont tout Gouvernement dispose, une tendance décidée, en un mot, pour une politique de résistance aux doctrines comme aux pratiques du parti radical. A côté de cette tendance, nous en avons toujours distingué une autre, d'après laquelle on semblait penser que dans les rapports avec le parti radical, les ménagements, les concessions, les compromis étaient la meilleure manière d'apaiser ses passions ou d'amoindrir ses prétentions; qu'il fallait user avec lui de douceur, de patience, ne pas aller jusqu'au bout des moyens légaux, ne réprimer que l'excès du désordre matériel, n'entrer en conflit avec lui qu'à la dernière extrémité, et en tempérant, par la bonne grâce des relations, ce que pouvait avoir de rude la répression légale. (Nouvelle approbation à droite.* — Mouvements divers.) || Ces deux tendances, messieurs, nous ne sommes pas surpris de les rencontrer; dans les temps de révolution, elles partagent ordinairement les assemblées. Ces deux tendances se sont rencontrées, après la révolution de Juillet, dans deux partis commandés par des hommes inégalement illustres, mais également honorables: elles sont au fond de la nature des choses comme de l'esprit humain. Nous ne nous sommes donc pas étonnés de les voir reparaître. || Mais ce qui est peut-être plus surprenant, c'est de les voir réunies dans le même ministère, dans le même cabinet, à côté l'une de l'autre, ayant chacune leur jour, leur moment d'empire prévalant par intermittence et se partageant, en quelque sorte, la carte de France, de manière que des régions entières semblaient abandonnées par l'administration, à l'une ou à l'autre. (Rires d'adhésion sur plusieurs bans à droite.) || Voilà pourtant le spectacle auquel, il faut bien le dire, le Gouvernement nous fait assister depuis deux ans. Que ces deux tendances aient été suivies et pratiquées par lui tour à tour, suivant les lieux et les heures, j'en appelle à vos souvenirs; j'en appellerai au souvenir de ces discussions qui, quelquefois dans le même débat, ont valu aux organes du Gouvernement ou les applaudissements qui partaient de la pointe extrême de ce côté (la gauche) ou des adhésions qui partaient du sommet de celui-ci (la droite). || J'en appelerai aux souvenirs que chacun a pu rapporter de son département, de ces condamnations provoquées par les magistrats contre des individus subitement grâciés par des interventions supérieures; j'en appellerai au souvenir de ces promotions de fonctionnaires, où la part semblait à dessein également faite à deux éléments contradictoires; j'en appellerai enfin au souvenir de ces correspondances tant de fois parties du secrétariat général de la Présidence, et tant de fois désavouées dans le *Journal officiel.* || Dans tous ces faits, les deux tendances étaient visibles, on les saisissait aux prises l'une avec l'autre. Dans le cours de la session dernière, en particulier, ces conflits et ces différends se sont accusés aux yeux du public tous les jours davantage, à ce point qu'on a commencé à nommer dans le cabinet ceux qui représentaient l'une et l'autre. (C'est vrai! c'est vrai! à droite.) || Eh bien,

les élections de Paris du 27 avril, et déjà même les préliminaires bruyants de ces élections, ont fait passer ce conflit de tendances, de l'état latent et tacite à l'état public et aigu. Le conflit a éclaté alors à tous les yeux de manière à ne plus pouvoir être dissimulé. || Je ne veux pas prolonger cette discussion. Je ne prendrai donc que deux faits très-caractéristiques et incontestables. || La conduite du Gouvernement à l'égard de la loi sur la municipalité lyonnaise est le premier de ces faits. La nécessité de cette loi a été pour la première fois signalée à cette tribune par M. le ministre de l'intérieur: c'est lui qui a dit dans la discussion sur la police de Lyon que le désordre moral était tel à Lyon qu'on ne pouvait pas le souffrir plus longtemps. C'est le ministre de l'intérieur qui a présenté la première loi pour y porter remède. || Modifiée par la commission, cette loi a été acceptée dans ses modifications par le Gouvernement, représenté cette fois encore par le ministre de l'intérieur. Si jamais loi paraissait établir une solidarité étroite entre le Gouvernement et l'Assemblée, c'était bien celle-là assurément qui avait été préparée par le Gouvernement, modifiée par la commission, et acceptée à la tribune par le ministre de l'intérieur. || Qu'est-il arrivé? Ce qui, en réalité, devait arriver, ce que des hommes d'Etat apparemment devaient prévoir, ce qui ne pouvait pas ne pas arriver. C'est que la municipalité lyonnaise étant un centre puissant, une véritable citadelle du parti radical, le parti radical tout entier a ressenti l'attaque et s'est proposé immédiatement d'user de représailles. Il a voulu se défendre et rendre au Gouvernement qui l'avait frappé attaque pour attaque. Cela était inévitable. Je ne puis que m'étonner que des hommes d'Etat en aient été surpris. || Quant à nous, membres de la majorité, nous nous étions parfaitement attendus à ce que le parti radical ne se laisserait pas déposséder sans combat, sans résistance, d'un de ses centres les plus puissants. Nous nous étions donc attendus au conflit; c'était une lutte qui commençait. (Très-bien! très-bien! à droite et au centre droit. — Rumeurs à gauche.) || Qu'avons-nous vu cependant? Quel a été le résultat de ces représailles contre cette attaque portée en commun contre un acte fait à la fois par le Gouvernement et par l'Assemblée? Je dis "en commun", car ce qu'un Gouvernement laisse faire, il le fait. (Nouvelle approbation à droite et au centre droit.) Je dis donc et je répète que l'acte était fait en commun, par le Gouvernement et l'Assemblée. || Eh bien, aussitôt que la représaille a paru sous la forme d'une candidature opposée à celle de M. le ministe des affaires étrangères à Paris, tous les organes officieux ou officiels du Gouvernement ont désavoué la loi votée en commun par lui et par l'Assemblée. (C'est cela! — très-bien! très-bien! à droite et au centre droit.) || Tous les patrons de la candidature de M. le ministre des affaires étrangères, les comités dont il visait les circulaires ont condamné cette loi, l'ont condamnée comme une atteinte aux franchises municipales et ont dénoncé l'Assemblée comme ayant jeté à ces franchises municipales une provocation gratuite. || Voilà ce que j'appelle le conflit des deux tendances

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à l'état public et aigu. (Vive approbation et applaudissements à droite et au centre droit.) || Depuis, autre chose s'est passée, plus considérable encore dans ses conséquences. || Pendant que durait cette grande lutte électorale, tout à coup, dans un congrès de sociétés savantes, où la politique était déplacée, et ne pouvait, par conséquent, entrer sans calcul, M. le ministre de l'instruction publique, — le ministre d'alors s'entend, — dans des paroles dont on ne connaît pas bien la teneur exacte, a porté contre cette Assemblée une cruelle imputation. L'honorable M. Jules Simon, contre lequel aucun grief personnel ne m'anime. . . (Légères rumeurs sur quelques bancs à gauche), me permettra de n'être pas plus blessant pour lui qu'il ne l'a été pour chacun de nous; mais enfin son discours, — quel qu'en soit le texte exact, soit celui qui a été primitivement recueilli par les divers journaux, soit celui qui a été publié dans le *Journal officiel*, — son discours contenait, au fond, une offense bien grande et bien douloureuse contre chacun des membres de cette Assemblée. (Vif assentiment à droite et au centre droit.) || Dire, en effet, qu'un homme, un homme seul, quelque illustre qu'il soit, a opéré la libération du territoire français; le dire quand cette Assemblée a reçu du pays, comme première mission, le rachat de notre indépendance, c'était lui dire qu'elle avait négligé et compromis la partie la plus chère et la plus sacrée de son mandat. (Très-bien! très-bien! à droite.) Qu'on l'ait dit expressément ou par prétérition, l'offense est la même. (C'est vrai! — Très-bien! du même côté.) || Le ministre de l'intérieur, dans la commission de permanence qui vous représentait si dignement, sommé de s'expliquer sur ces paroles, en a solennellement désavoué la responsabilité; il a déclaré qu'il ne voulait pas en répondre. || Voilà ce que j'appelle, encore une fois, le conflit de tendance à l'état public et aigu. (Marques d'assentiment à droite et au centre droit.) || Dès lors, messieurs, ce conflit est devenu tout à fait officiel; la presse, les journaux, la publicité, tout le monde s'en est emparé, et les deux tendances ont été représentées par l'honorable M. de Goulard d'un côté, par l'honorable M. Jules Simon de l'autre: tendance à la résistance ouverte contre le parti radical d'un côté, tendance aux ménagements à l'égard de ce même parti, de l'autre; — car, porter atteinte à l'Assemblée, comme l'avait fait l'honorable M. Jules Simon, c'était apporter au premier article du programme du parti radical un appui qui venait de haut, puisque ce premier article est la dissolution immédiate de l'Assemblée. (Nouvelles marques d'assentiment à droite et au centre droit.) || Ce conflit a duré, je crois, trois semaines, publiquement, devant tout le monde; chaque ministre ayant des journaux qui l'appuyaient; le public attendant de quel côté pencherait le Gouvernement. || Enfin, le *Journal officiel* a paru avec cette mention que M. le Président de la République avait reconnu la nécessité de modifier son administration. Je le crois bien, en vérité! Il etait difficile de faire revenir sur les mêmes bancs les ministres séparés par de telles différences d'appréciation politique. La politique d'équilibre, de bascule, comme on l'a appelée, la coexistence de deux

tendances contraires au sein du cabinet, tout cela avait fait son temps; il fallait prendre son parti entre l'une et l'autre. || Quel est le parti qui a été pris? Le nouveau cabinet qui se présente, quelles tendances représente-t-il? Est-ce une tendance ouverte à la résistance, à la politique de résistance, à la résistance par tous les moyens légaux et moraux, aux pratiques comme aux doctrines du parti radical? Est-ce, au contraire, la tendance à la concession, aux complaisances, aux compromis, une politique se rapprochant du parti radical autant que la sécurité de la société et la conscience d'honnêtes gens pourraient le permettre? Laquelle de ces deux tendances le cabinet représente-t-il?

A droite et au centre droit. Très bien! — Voilà la question!

M. le duc de Broglie. Voilà, messieurs, à quoi revient, en définitive, l'interpellation adressée au cabinet. Que représente-t-il? Est-ce la tendance à la résistance? Est-ce la tendance à la concession? || Je vais dire tout de suite, sauf à être contredit, — et je serais heureux de l'être, — mais il faudra que je le sois par des faits positifs, par des explications concluantes, et non par des déclarations générales (Oui! oui! — Très-bien! très-bien! — Applaudissements à droite et au centre droit.) . . . dont les termes sont toujours vagues, et dont, à la longue, les oreilles se fatiguent. (Nouvelles marques d'approbation à droite.) Il faudra que je sois contredit par des explications concluantes, — je serai heureux de l'être, — mais il faudra qu'elles soient concluantes.

Un membre à droite. Il faut des actes!

M. le duc de Broglie. En attendant, je dirai qu'elle est l'impression publique générale, que chacun de nous peut recueillir en causant, en dehors de cette enceinte, avec tous ceux que la politique préoccupe. || Cette impression est que ce cabinet actuel est un pas de plus dans la voie des concessions, des ménagements, des compromis vis-à-vis du parti radical. (Rumeurs à gauche. — Marques d'assentiment et applaudissements répétés du côté droit.) || Je dis que c'est là l'impression commune, que c'est celle que chacun de nous peut recueillir, même parmi les gens d'opinions le plus opposées. || Sans doute chacun ne se sert pas des mêmes termes pour rendre sa pensée: ceux qui approuvent le cabinet nouveau ne parlent pas de complaisance et de compromis; mais ils conviennent volontiers que c'est un pas fait en dehors de la politique de résistance et dans la voie contraire. || Qu'est-ce qui donne cette opinion au public, quand les noms des personnes appelées nouvellement à prendre place dans le cabinet devraient donner l'impression toute contraire, quand leurs intentions connues, quand leurs actes même, leurs actes récents, comme par exemple le discours de M. Bérenger qu'il aurait peut-être un peu de peine à refaire aujourd'hui qu'il est ministre . . . (Rires à droite. — Protestations et rumeurs à gauche.)

M. Dufaure, *garde des sceaux.* Pourquoi donc aurait-il de la peine à le refaire?

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M. le duc de Broglie. Je tiens à expliquer ma pensée qui n'a rien de blessant pour l'honorable M. Bérenger. || Je doute que le ministère assis sur ces bancs voulût prendre aujourd'hui la solidarité du discours prononcé par M. Bérenger et de ses attaques contre la municipalité lyonnaise; j'en doute. S'il dit qu'il accepte cette solidarité, je ne demande pas mieux. || Quelle est donc la raison qui fait croire que des personnes si honorables, des noms si compromis dans la cause de l'ordre même depuis plusieurs générations, paraissent déterminer par leur arrivée au pouvoir un pas en dehors de la politique de résistance. Bien des faits, messieurs, qu'il serait trop long d'énumérer, et surtout la base étroite sur laquelle s'est placée la nouvelle modification ministérielle, la base étroite qui sépare les nouveaux ministres, qui les tient du moins à distance de la majorité conservatrice de cette Assemblée et de la plupart de ses nuances, et puis, comme conséquence, la sortie du cabinet du membre qui, dans ces derniers temps, avait représenté les intérêts, les doctrines, les pensées de la grande majorité conservatrice de cette Assemblée. (Très-bien! très-bien! au centre droit et à droite.) Voilà les faits qui, éclatant aux yeux du public, ont donné tout de suite à la dernière modification ministérielle le caractère d'être un pas fait en dehors de la politique de résistance. || Je sais bien qu'un autre membre du cabinet, qui représentait l'autre tendance, en est sorti le même jour et à la même heure. Mais on me permettra de faire remarquer qu'il n'y a point de parité. || En effet, il était difficile à l'honorable M. Jules Simon, ayant une opinion si sévère sur ses collègues de la majorité de cette Assemblée, de continuer à les représenter comme ministre de leur délégué. La même raison n'existait pas, c'était la raison contraire, pour le ministre qui représentait les intérêts et les pensées de la majorité de cette Assemblée. (Assentiment à droite et au centre droit.) || Et s'il était vrai, que c'est pour faire une sorte de compensation qu'ils sont sortis l'un et l'autre, alors ce serait bien là ce que j'appelle une politique de concessions et de compromis. (Nouvel assentiment sur les mêmes bancs.) || J'insiste, messieurs, sur ce fait, qui est le plus saillant; non qu'il soit le fait unique, mais il est le fait dominant dans la crise. || Je crois que le moment est venu de parler ouvertement et qu'il doit m'être permis de prononcer quelques noms propres. Je tâcherai de le faire sans être blessant: mais le pays a besoin de lumière, il a besoin de sortir des sousentendus et de l'obscurité. (Rumeurs sur quelques bancs à gauche.)

A droite et au centre droit. Parlez! parlez! — Ecoutez! écoutez!

M. le duc de Broglie. Messieurs, j'insiste sur ce fait, parce qu'il répond d'avance à l'objection que je prévois et que nous font, de plusieurs côtés, les organes de la presse amie du Gouvernement. || On nous a dit, depuis un an, on nous répète beaucoup, depuis quelques jours, que les incertitudes, que les conflits et que les contradictions que je vous signale dans la politique du Gouvernement proviennent de ce que le Gouvernement n'a, pour assiette, que des institutions provisoires; de ce qu'il ne peut prendre son point d'appui,

de résistance sur des institutions définitives. Le mal vient, dit-on, de ce que la majorité conservatrice se refuse à passer du provisoire au définitif; de ce que le parti conservateur n'est pas suffisamment républicain; on ajoute que le nouveau cabinet va retremper ses armes de conservation dans les eaux républicaines et qu'il les en retirera moins émoussées et plus vives contre le parti radical. || Messieurs, je serais d'abord un peu étonné de rencontrer cette objection dans la bouche de M. le garde des sceaux; car, s'il m'en souvient bien, dans la discussion si récente encore de la commission des Trente, c'est lui, au nom du Gouvernement, c'est lui qui a insisté surtout pour qu'on ne passât en aucune manière et sous aucun prétexte du provisoire au définitif; c'est lui, au nom du Gouvernement, qui, dans des termes que j'ai sous les yeux, a dit que le Gouvernement était d'avis que le moment n'était pas venu alors, — c'était il y a deux mois à peine, — ni de faire la république, ni de constituer la monarchie; que ce n'était pas là de sa part une tactique parlementaire étudiée, — ce sont ses termes mêmes, — mais la suite d'une profonde étude de la situation du pays. C'est lui qui, à l'intérêt de la paix et du repos, a demandé à la commission des Trente de s'abstenir de toucher à la question des institutions définitives. || D'accord avec lui sur ce point, nous lui avons accordé aussi ce qu'il demandait dans la mesure et dans la forme qu'il avait déterminées lui-même; nous lui avons remis le soin de présenter à l'Assemblée, sous la forme qu'il jugerait convenable, trois lois organiques qui sont de vraies lois constitutionnelles. || Comme rapporteur de la commission des Trente, j'ai adhéré et demandé à l'Assemblée son adhésion à toutes ces mesures. Je l'ai fait surtout par cette considération qu'aux yeux du Gouvernement l'intérêt conservateur, l'intérêt de la politique conservatrice était engagé dans ces mesures. Je l'ai fait au prix de sacrifices douloureux; beaucoup de mes amis l'ont fait avec moi. Tels le Gouvernement nous a trouvés alors, tels, dans la discussion des projets de loi qu'il vient de déposer sur le bureau de l'Assemblée, il nous retrouvera, s'il veut encore de notre concours, que sa réserve et sa mesure rendent essentiellement désintéressé. (Mouvements divers.) Mais si on pouvait reprocher à la majorité de cette Assemblée de n'être pas assez républicaine, l'honorable M. de Goulard ne méritait pas ce reproche; il avait pris, lui, très-résolument son parti d'adhérer à toutes les déclarations et à toutes les tendances républicaines du Gouvernement. || Le premier, il avait fait honneur de l'emprunt des 3 milliards à la République conservatrice; il avait accepté, comme ministre, la solidarité du message du 11 novembre. Rien n'indique qu'il n'ait pas collaboré aussi aux lois actuellement soumises à l'Assemblée. S'il est sorti du cabinet avec la tendance qu'il représentait, ce n'est donc pas qu'il fût trop peu républicain, il faut bien convenir que c'est qu'il était trop conservateur. (Vives marques d'adhésion à droite.) || Eh bien, messieurs, si cela est vrai, si c'est bien là, en dehors de toutes les questions de formes de gouvernement, si c'est bien là la dissidence qui nous sépare du nouveau cabinet, si c'est la crainte que son avénement ne soit un pas fait en dehors de

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la politique de résistance, et si cette crainte n'est pas démentie par des explications catégoriques fondées sur des faits, je demande la permission d'appeler l'attention du cabinet sur la position où il va se trouver. ‖ Il y a ici 320 députés ayant signé l'interpellation, qui sont profondément convaincus que contre le progrès des doctrines radicales l'action active, énergique du Gouvernement dans la voie légale et indispensable; qui attribuent à ses oscillations, à ses indécisions la plus grande partie du progrès que ces doctrines font dans le pays, l'autre partie seule étant imputable aux passions qu'elles flattent dans le coeur des populations. (Très-bien!) ‖ Profondément convaincus aussi que ces oscillations, que ces indécisions, que cet équilibre entre la résistance et les ménagements dont je parle ont été le grand véhicule des progrès du parti radical (Très-bien! très-bien! à droite.) . . . . ils ont conclu résolûment qu'il faut renoncer à ces oscillations, à cet équilibre et à plus forte raison s'abstenir de faire un pas dans le sens contraire à la résistance. Il pensent qu'un gouvernement n'a pas tout fait quand il a assuré l'ordre matériel; que l'ordre moral dépend beaucoup de lui, qu'il peut le fortifier ou l'affaiblir par son attitude, par les doctrines qu'il professe hautement et surtout par l'esprit qu'il inspire à son administration. (Très-bien! très-bien!) ‖ Ils sont convaincus que, si le Gouvernement ne revient pas dans la voie résolûment conservatrice, le progrès du radicalisme ne pourra être arrêté. Ces 320 députés ont cette conviction, dans le fond même de leurs consciences, et ils sont décidés à la maintenir. Ils croient que l'heure suprême est arrivée et que les compromis, que les ménagements ont duré, et ont porté leurs mauvais fruits aussi longtemps qu'il est possible de les supporter. (Très-bien! très-bien! et applaudissements à droite). ‖ Ils croient que le précipice est ouvert et qu'il n'y a qu'un pas à faire pour y tomber; ils croient, suivant une phrase fameuse, qu'il n'y a plus, dans ce sens, ni une faiblesse ni une faute à commettre. (Nouveaux applaudissements à droite.) C'est leur conviction profonde; et tout cabinet, qui ne leur donnera pas à cet égard une certitude absolue, ne peut pas, — malgré leurs regrets et quels que soient ses services et ses mérites d'ailleurs, car le péril public est grand, pressant et n'attend pas de délai, — ne peut pas, dis-je, compter sur leur concours. (Approbation à droite.) ‖ Ces 320 personnes disposent-elles de la majorité de cette Assemblée? Je crois qu'elles sont en communion de pensée avec la grande majorité de l'Assemblée; je ne préjuge rien sur un vote inconnu où peuvent agir des motifs différents, entre autres le désir très-naturel, très-légitime de ne pas ébranler le Gouvernement dans une société si souvent ébranlée que la nôtre. (Rumeurs sur divers bancs à gauche et au centre gauche.) C'est un sentiment qui ne l'emporte pas dans nos consciences sur la certitude d'un péril évident, d'une menace certaine, mais qui peut agir sur certains esprits, je le conçois; mais si le Gouvernement devait à ce sentiment quelques voix de majorité, dans quelle situation se trouverait-il? ‖ Dans cette majorité de hasard figurerait tout l'état-major du parti radical lui-même. (Très-bien! très-bien! à droite.) Il y figurerait dans l'hypo-

thèse que je dis, dans l'hypothèse où le caractère donné à la politique du Gouvernement ne serait pas démenti par les faits, il y figurerait comme un appoint vainqueur et dominant. Le cabinet et le reste de la majorité ne seraient pas les alliés, mais les pupilles et les protégés du parti radical. (Très-bien! très-bien! à droite. — Bruit à gauche.) || Et c'est dans cette situation, situation dépendante du parti radical que le cabinet nous convierait à constituer la France avec lui? || C'est dans cette situation dépendante du parti radical qu'il nous demanderait de voter des lois que je n'ai pas encore examinées, contre les principes généraux desquels je n'élève ici aucune objection, mais enfin des lois qui, aux yeux du parti radical, blessent le suffrage universel et partagent la souveraineté nationale d'une façon que ce parti n'accepte pas! | Quelle situation étrange et sans issue! Dépendre, pour son existence journalière, du bon plaisir des radicaux et, en même temps, proposer et faire voter des lois contre lesquelles le parti radical proteste! Car il a protesté déjà, vous le savez, contre le principe de ces lois, contre votre droit de les faire, et cette protestation, déposée séance tenante, sans perdre une heure, ne peut avoir d'autre but dans sa pensée que de faire courir les délais légaux de l'insurrection. Comment donc le Gouvernement s'étonne-t-il que nous ne prêtions à ces lois qu'une attention distraite. Avant de les examiner il faut que nous sachions si des alliés, qui demain peut-être seront des maîtres, lui permettront à lui-même de les discuter et surtout de les appliquer. || Je termine, messieurs, et restant toujours dans l'hypothèse que j'ai posée, toujours prêt à en recevoir la réfutation par les faits, je termine en disant au Gouvernement que, si réellement il se trouvait placé, comme je viens de l'expliquer, dans la dépendance du parti radical, nous le supplierions, pour son honneur, de ne pas rester même un jour dans cette cruelle situation; nous le supplierions de s'arrêter dans cette voie funeste, car c'est celle où, avec les plus loyales et les meilleures intentions, les gouvernements se laissent aller aux transactions qui les déshonorent, courent aux catastrophes qui emportent leur renommée en même temps que les sociétés qu'ils défendent. (Approbation à droite.) || Sur cette pente funeste, dans la dépendance et sous la direction qui pèseraient sur lui, ce ne serait pas seulement les lois constitutionnelles qui disparaîtraient: ce serait les lois organiques et fondamentales de la société elle-même qui seraient bientôt atteintes. Il irait de faiblesse en faiblesse et de chute en chute. Personne ne peut dire, dans les grands assauts auxquels est soumise cette société meurtrie par tant de blessures, quel sort nous réservent à tous les passions révolutionnaires. Il peut y avoir de mauvais jours. Ils menaceraient les membres du cabinet, j'en suis sûr; ils menaceraient aussi le plus grand nombre de ses amis tout autant que nous. || Mais périr pour sa cause, en tenant son drapeau dans la main et au pied d'un rempart qu'on défend . . . (Très-bien! très-bien! à droite), c'est une mort glorieuse, dont un parti se relève, et qui grandit la mémoire des hommes publics. (Très-bien! très-bien! et applaudissements à droite et au centre droit.) || Périr, au con-

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traire, après avoir préparé, avant de le subir, le triomphe de ses adversaires; périr en ayant ouvert la porte de la citadelle; périr en joignant au malheur d'être victimes, le ridicule d'être dupes (Bravos et applaudissements répétés à droite), et le regret d'être involontairement complice, c'est une humiliation qui emporte la renommée en même temps que la vie des hommes d'Etat. || Je conjure le ministère et ses amis de se rappeler le ministère des Girondins, suivi de si près du 10 août; je les conjure de se rappeler que, si les contemporains sont souvent flatteurs, la postérité est impitoyable pour les gouvernements et pour les ministres, dont la faiblesse livre à l'ennemi les lois et les sociétés qu'ils sont chargés de défendre. (Très-bien! très-bien! Bravos et applaudissements redoublés à droite et au centre droit. — L'orateur, en descendant de la tribune, est accueilli par une nouvelle salve d'applaudissements et reçoit de nombreuses félicitations.)

M. Dufaure, *garde des sceaux, vice-président du conseil.* Messieurs, le Gouvernement est très-loin de se plaindre de l'interpellation qui lui a été adressée au nom d'un grand nombre des membres de cette Assemblée. Dans les termes où elle a été posée, elle est un usage légitime et salutaire du gouvernement parlementaire. Elle établit une communication directe et publique entre l'Assemblée et ceux qui sont accidentellement chargés du Gouvernement. Elle vaut mieux que toutes les conversations, que tant de bruits répandus, tant d'inventions singulières qui ne sont propres qu'à altérer nos rapports mutuels; elle est l'expression publique, sincère, avouée de ce que veut le Gouvernement, de ce qu'il a fait, de ce qu'il entend faire. Je remercie donc nos honorables collègues de leur interpellation . . . . (Interruptions et rires ironiques sur plusieurs bancs à droite.) Je les remercie sincèrement de leur interpellation, à la condition qu'ils veuillent bien écouter avec quelque attention la réponse que je dois y faire. (Parlez! Parlez!) || L'honorable orateur qui descend de la tribune a commencé par expliquer la cause de l'émotion qui s'est emparée de lui et d'un grand nombre de nos collègues. Elle est, a-t-il dit, toute entière dans les deux graves élections qui ont eu lieu depuis notre séparation, le 27 avril et le 11 mai. || On y a vu, — et je dis immédiatement que nous y avons vu, dans la même mesure que l'honorable orateur que l'Assemblée vient d'entendre, — on y a vu une sorte de péril social contre lequel il était nécessaire de lutter. Je dirai tout à l'heure par quels moyens, selon nous, il faut lutter contre le danger que nous redoutons. || Oui, nous avons été frappés du même péril que l'orateur signalait tout à l'heure. Nous ne sommes pas plus que lui, — et il le sait bien, — des complaisants du parti radical. Je ne veux pas parler ici des personnes, je ne prononcerai aucun nom. Je parle des doctrines; j'ai le droit d'en parler: elles sont professées avec toute la liberté que donnent nos lois sur la presse; elles sont proclamées dans les banquets publics; elles sont écrites dans des professions de foi; elles sont écrites dans les antécédents de quelques-uns de ceux qui les professent. J'ai donc le droit de connaître ces doctrines, d'en

parler, et les apprécier. || Je dis que le Gouvernement les repousse; je dis que le Gouvernement les condamne, qu'il les regarde comme incapables de fonder une société régulière. . . . (Légères interruptions à droite.) || Si quelqu'un conteste ce que je dis . . . (Non! non! — Continuez! continuez!) || Il les regarde, je le répète, pour que ma pensée soit bien comprise, il les regarde comme incapables de fonder une société régulière. Je suis convaincu que du jour où elles viendraient à triompher légalement, il n'y aurait plus ni ordre, ni sécurité, ni garantie pour aucun droit et qu'il n'y aurait autre chose en France qu'une liberté absolument égale du mal et du bien, tempérée très-souvent par un despotisme sans limite, sans frein. Voilà quelle est mon opinion sur les doctrines radicales. (Mouvement prolongé en sens divers.)

Un membre à droite. Il faut les empêcher de se produire!

M. Prax-Paris. Vous ne les empêchez pas d'arriver!

M. le garde des sceaux. Maintenant, messieurs, puisque nous sommes d'accord sur ce point l'honorable orateur qui descend de la tribune et moi, quel reproche adresse-t-il au Gouvernement? || Il a mis de côté ce qui s'est passé à l'égard de l'affreuse insurrection de la Commune; il n'a pas tenté de diminuer le mérite du Gouvernement qui en a été le vainqueur. Mais, qu'a-t-il vu, pour ce qui s'est passé depuis, dans le Gouvernement? Il y a vu deux tendances contraires: le parti radical n'a pas été combattu; le Gouvernement a usé de tempéraments, il a usé de complaisances. || Je voudrais bien, messieurs, que nous prissions l'habitude de juger le Gouvernement par ses actes publics. (Chuchotements à droite. — Très-bien! très-bien! au centre gauche.) Je voudrais bien que nous prissions l'habitude la plus juste et la plus raisonnable du monde, de juger un Gouvernement par ses actes, et non par des propos qui se répandent au milieu de la société et dont on ne connaît jamais les inventeurs. (Réclamations à droite. — Très-bien! très-bien! du côté gauche.) || Eh bien, quels ont été les actes du Gouvernement? Depuis la victoire sur la Commune, a-t-il faibli un moment? Permettez-moi de vous le dire, messieurs, quelquefois vous vous êtes associés avec éloge aux tentatives qu'il a faites précisément pour réprimer les excès du parti démagogique. || C'est le Gouvernement qui vous a demandé, permettez-moi de le rappeler, la loi sur l'Internationale, loi essentielle et puissante que vous avez entre les mains. Une autre fois, c'est le Gouvernement qui a résisté à la tentative qui est partie de ce côté (le côté droite) d'abolir nos lois sur les associations. Il a fallu que je subisse les épigrammes de M. le vicomte de Meaux . . . (Sourires), parce que j'avais été si peu libérale, que j'avais résisté à la loi qu'il défendait, loi qui détruisait, selon moi, toutes les garanties dont la société a besoin. C'est le Gouvernement qui a fait maintenir ces lois. || Une loi a été présentée pour combattre les abus que la loi de 1849 sur le jury avait introduits dans le jugement des affaires criminelles. Qui donc l'a présentée, qui l'a soutenue et pourquoi vos orateurs, à cette époque, rendaient-ils hommage à la fermeté avec laquelle le Gouvernement cherchait des juges équitables,

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impartiaux et éclairés? Vous oubliez tout cela; vous conservez soigneusement le souvenir de quelques propos de salons et de cabinets qui se répandent. . . (Exclamations à droite. — Applaudissements à gauche.) ‖ On nous faisait l'honneur tout à l'heure de nous dire qu'on attendait du Gouvernement une direction vive et ferme contre les attaques que la société pouvait souffrir. Nous avons, messieurs, un moyen de donner cette impulsion, de faire connaître notre pensée, de la faire prévaloir: c'est par les lois que nous apportons à la tribune, par les résolutions que nous vous demandons. Nous l'avons fait constamment. Indiquez-nous, depuis deux ans, une loi dans laquelle nous ayons manqué à toutes les garanties que réclament l'ordre et la sécurité publique, que réclament les intérêts de la société entière. ‖ Voilà la réponse que j'avais à faire à l'honorable orateur. ‖ Lorsqu'il a pris la peine de chercher dans le cabinet ces deux tendances contraires, une tendance de sévérité et une tendance de tempérament, il a oublié que les lois ont été présentées au nom du cabinet tout entier; qu'elles ont été soutenues par le cabinet tout entier; qu'elles ont été exécutées sous l'autorité du Gouvernement tout entier, et qu'il n'y a pas le moindre fondement aux reproches qu'il nous faisait à cet égard. (Exclamations ironiques à droite.) ‖ Mais, dit-il, de graves circonstances se sont présentées, dans lesquelles des tendances différentes se sont manifestées dans le Gouvernement. Dans une première occasion, le Gouvernement avait présenté, par l'intermédiaire de l'honorable M. de Goulard, une loi qui apportait des modifications à l'organisation de la commune de Lyon, modifications que votre commission n'a pas trouvées assez radicales. (Rires à gauche.) Votre commission a exprimé son opinion, le Gouvernement l'a adoptée: la loi a été votée conformément à cette opinion; le Gouvernement l'a fait exécuter, le Gouvernement tout entier; pas un ministre n'a protesté. ‖ Mais, dit-on, lorsqu'est venue la candidature de M. Barodet à Paris, des organes officiels du Gouvernement ont déclaré que la loi sur la municipalité lyonnaise était mauvaise. Des organes officiels!

Quelques voix à droite. Des organes officieux!

M. le garde des sceaux. L'honorable orateur peut consulter le seul organe officiel que le Gouvernement reconnaisse. . . . . (Exclamations à droite.) ‖ Messieurs, vous m'obligez à me répéter. Je répète que le Gouvernement ne reconnaît qu'un organe officiel. (Nouvelles interruptions à droite.) Me comprenez-vous? . . . (Mouvements divers.) qu'un organe officiel, et que nous n'entendons pas, à aucun degré, dans aucune mesure, que l'on nous attribue des opinions qui seraient écrites dans quelque autre journal que ce soit; et je suis étonné que l'honorable duc de Broglie, qui, au moins par souvenir de famille, devrait conserver quelques convenances à l'égard de ses collègues . . . . (Vives réclamations à droite. — Approbation et applaudissements à gauche.) je suis étonné, dis-je, que l'honorable duc de Broglie vienne attribuer aux collègues qu'il a dans le cabinet des opinions puisées dans des journaux où, le jour où il le voudra, il trouvera tout aussi bien des attaques

contre nous. || Laissons donc, messieurs, tout cela de côté; le Gouvernement a été parfaitement uni dans la présentation de ces projets de loi, dans leur défense, dans leur vote, et le Gouvernement les a fait rigoureusement et fermement exécuter. || Mais, dit-on, dans une réunion de sociétés savantes, un des membres du cabinet, l'honorable ministre de l'instruction publique aurait prononcé des paroles blessantes pour l'Assemblée. || Je les regrette si elles ont été prononcées; mais je m'empresse de dire que l'honorable ministre lui-même, devant le cabinet tout entier, a reconnu que ce n'était point là un acte de gouvernement. (Bruyantes exclamations à droite et au centre.)

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M. Paris (Pas-de-Calais). Il parlait comme ministre!

M. le garde des sceaux. Attendez donc, messieurs! || Il s'est reconnu seul responsable; et, lorsque le ministre de l'intérieur, dans le sein de la commission de permanence, a déclaré que M. Jules Simon devait seul en répondre, il a été l'organe du cabinet tout entier. (Rumeurs sur divers bancs.) || Comment donc, messieurs! vous, qui m'interrompez, imaginez-vous qu'on puisse attribuer au cabinet les paroles que je ne connais pas, mais qui auraient été prononcées? (Exclamations à droite.) || Eh bien, voilà pourtant tous les gages que, d'après l'honorable duc de Broglie, nous avons donnés au parti radical! Vous venez de le voir! || Mais il nous demande qu'elles seront les tendances du ministère actuel à l'égard du parti radical. Seront-elles des tendances plus faciles, plus complaisantes? J'ai, dit-il, des raisons de le craindre. || Je suis un peu étonné, lorsqu'on a devant soi les honorables collègues qui sont entrés dans le conseil, que l'on se demande s'ils y viennent comme des complaisants du parti radical. (Mouvements divers.) Pour justifier ce doute blessant, on a dit que l'honorable M. Bérenger, dont le discours puissant a été un des principaux moyens de faire triompher la loi sur la municipalité lyonnaise, on a dit qu'aujourd'hui il ne le prononncerait pas. Et pourquoi ne le prononcerait-il pas? Est-ce que son opinion a changé? Est-ce que son caractère décidé, quand il a prononcé ce discours, s'est affaibli depuis? Est-ce que ses collègues, qui ont voté la loi, exerceraient sur lui une pression quelconque pour l'empêcher de parler comme il a parlé? Vous voyez tout ce qu'il y a de frivole dans des reproches de cette nature. (Approbation au centre gauche.) || A la vérité, on est inquiet sur les tendances du nouveau cabinet, par deux raisons: l'une, la retraite de l'honorable M. de Goulard et l'autre la base étroite sur laquelle le cabinet s'est formé. || Pour la retraite de l'honorable M. de Goulard, je serai promptement d'accord avec ce que disait tout à l'heure M. le duc de Broglie. Il ne s'est élevé entre M. de Goulard et nous aucune question de principe. Nous avons été préoccupés pendant votre absence de deux grandes questions: la première, la confection des lois que vous nous avez prescrit d'élaborer; la seconde, après les élections, la question de savoir si nous ne devions pas demander à l'Assemblée de reconnaître le gouvernement républicain. || Voilà les deux graves questions politiques, et je n'en connais pas de plus élevées, qui ont occupé le cabinet, l'ancien cabinet, depuis

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le jour où l'Assemblée nationale s'est séparée. || Nous avons été complétement d'accord avec les deux collègues qui nous ont laissés. Il peut y avoir, dans les lois que nous avons eu l'honneur de vous présenter, quelques points de détail sur lesquels nous différions; dans une matière aussi délicate, il ne peut en être autrement. Mais, quant au principe même de ces lois, et quant à la nécessité de reconnaître le gouvernement républicain, il n'y a eu aucun désaccord entre nous. (Très-bien! très-bien! à gauche.) || Si donc M. de Goulard a laissé le cabinet, ce que personne ne regrette plus vivement que moi, ce n'est pas pour une question de politique générale. M. le duc de Broglie n'a pas le droit d'en conclure qu'il y a entre le cabinet actuel et le cabinet dont faisait partie M. de Goulard, une dissidence sur les principes. (Réclamations à droite.)

Un membre. Pourquoi donc est-il parti?

M. le garde des sceaux. Je vous demande pardon de répéter les choses les plus simples du monde; mais, puisque nous étions tous d'accord sur tous les principes politiques, M. de Broglie n'a pas le droit de conclure de la retraite de M. de Goulard qu'il y avait entre lui et nous une dissidence sur le principe. || Cela me paraît clair. || Mais les caractères les plus fermes peuvent céder quelquefois à des considérations personnelles. Dans cette circonstance, quelles ont-elles été? Pourquoi l'honorable M. de Goulard s'est-il retiré? Vous voudrez bien permettre à un de ses collègues, qui n'a jamais eu un froissement avec lui, que Dieu l'en garde, qui a été toujours dans les relations les plus douces et les plus affectueuses avec lui, de ne pas se charger de rendre compte d'impressions personnelles qu'il n'a pas connues. . .

Un membre au centre. Ah! (On rit.)

M. le garde des sceaux . . . . qu'il n'a pas connues, je le répète, et si quelqu'un désire les connaître, ce n'est pas au ministre de la justice qu'il doit s'adresser, c'est à l'honorable M. de Goulard lui-même, qui seul peut en rendre compte. (Très-bien! très-bien! à gauche et au centre gauche.) || Ainsi, messieurs, cette première raison, qui inspirait des craintes ou des doutes à M. le duc de Broglie, cette première raison, au point où nous examinons la question, ne peut lui en inspirer aucune. || Mais le cabinet s'est formé sur une base trop étroite! cela veut dire, je crois, en langage ordinaire, que les trois membres nouveaux du cabinet ont été pris dans un des groupes qu'on appelle le centre gauche.

Un membre. Centre gauche-droit!

M. le garde des sceaux. Voulez-vous que je vous dise pourquoi? C'est facile. || Nous avons cru qu'il y avait un parti décisif à prendre, et à proposer à l'Assemblée; j'expliquerai tout à l'heure la contradiction dans laquelle M. le duc de Broglie a cru me mettre avec moi-même; mais quant à présent, je dis qu'il nous a paru nécessaire de proposer à l'Assemblée de prendre un parti définitif et de reconnaître le gouvernement républicain. (Très-bien! à gauche.) || A qui, indépendamment de toutes les autres qualités qui

pouvaient nous décider, à qui de préférence devions-nous nous adresser? Avez-vous oublié que, peu de jours auparavant, l'honorable M. Casimir Perier avait publiquement manifesté ses opinions à cet égard? (Exclamations et rires à droite et au centre droit.) || Messieurs, je suis obligé de parler le langage élémentaire du gouvernement parlementaire. || Lorsque deux grandes questions politiques sont à résoudre dans un pays, et que le cabinet a besoin de se constituer, à moins de dissidence profonde sur d'autres points, qu'y a-t-il de plus naturel que de choisir ceux qui se sont exprimés publiquement à cet égard, et pris ainsi la responsabilité de l'opinion qu'ils veulent faire triompher? (Nouvelles exclamations sur les mêmes bancs.) Voilà pourquoi nous nous sommes adressés à nos nouveaux collègues; et comme leurs prédécesseurs, ils viendront défendre les lois que nous avons présentées. || Maintenant, avons-nous eu tort, en présence du danger que nous avons vu, comme M. le duc de Broglie, avons-nous eu tort de prendre cette résolution? Vous en déciderez, messieurs, quand nous examinerons ces lois. . . .

A droite. Non! non!

M. le garde des sceaux. Oh! nous les examinerons! — vous en déciderez, dis-je, quand nous examinerons ces lois qui n'ont pas encore appelé l'attention de M. le duc de Broglie . . . (Sourires sur plusieurs bancs), mais qui nous étaient recommandées par la loi du 13 mars 1873. || Je ne vous en dirai aujourd'hui qu'un mot. J'éviterai tout ce qui pourrait blesser l'Assemblée, mais je lui dirai sincèrement que, lorsque les deux élections du 27 avril et du 11 mai, et pour mieux préciser, je parle des deux élections de Paris et de Lyon; lorsque, dis-je, ces deux élections ont été faites, nous avons cherché sérieusement, nous avons appliqué notre esprit à découvrir qu'elles étaient les causes qui portaient les masses immenses d'électeurs vers le parti radical plutôt que de l'arrêter au parti conservateur républicain. (Mouvements divers.)

M. Léonce de Giraud. Je demande la parole.

M. le garde des sceaux. Lorsque nous avons vu dans Paris un candidat comme le ministre des affaires étrangères, qui avait puissamment concouru à tous les actes qui ont préparé la délibération du territoire . . . (Vifs applaudissements et acclamations à gauche. — Bruit et rumeurs à droite.)

M. Fouquet. Nous avons écouté M. le duc de Broglie en silence!

M. le garde des sceaux . . . . qui était recommandé à la fois par le sentiment national, par tous les souvenirs de la vie la plus honorable et par toutes les qualités d'un des esprits les plus distingués de notre temps . . . . (Nouveaux applaudissements à gauche) lorsque nous l'avons vu échouer, nous avons compris le danger profond qu'il y avait à rester dans l'état provisoire où nous étions. (Très-bien! très-bien! à gauche.) Il est vrai que je croyais — je l'ai dit dans la commission des Trente; je le pensais à cette époque... (Rires ironiques sur plusieurs bancs à droite.)

A gauche. A l'ordre! à l'ordre!

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M. le président. L'interruption qui vient d'avoir lieu n'est certainement pas parlementaire.

M. le garde des sceaux. Je le pensais à cette époque. Je croyais que nous pouvions encore continuer cette paix, cette trêve qui durait depuis deux ans et qui, jusqu'à cette époque, à part la Commune, à l'origine, nous avaient permis de maintenir la France libre, tranquille, heureuse . . . . (Oui! oui! à gauche.) je puis le dire, dans la mesure du bonheur qu'elle peut avoir après tant de catastrophes. || Oui, je pensais que nous pouvions encore continuer, je le faisais par esprit de conciliation. || Eh bien, j'ai été frappé, comme l'honorable duc de Broglie lui-même, des élections des 27 avril et 11 mai, j'ai cru qu'elles nous donnaient une grande leçon que n'a pas comprise l'honorable membre qui m'interrompait tout à l'heure . . . (Rires et applaudissements à gauche); j'ai compris que, pour lutter désormais contre le péril qu'on a signalé, il fallait un gouvernement définitif; c'est pour cela que nous vous avons présenté les projets de lois. (Nouveaux applaudissements à gauche et au centre gauche.) || Nous vous les avons présentés avec conviction; nous étions prêts à vous déclarer que, si vous n'accordiez pas ce que nous vous demandions: la reconnaissance du Gouvernement de la République, nous ne nous sentions plus la force de répondre de l'ordre public dans notre pays. (Très-bien! très-bien! à gauche et au centre gauche. — Mouvements divers.) || Messieurs, vous en jugerez, vous examinerez en même temps les lois que nous vous avons proposées; vous verrez si elles présentent des garanties suffisantes pour la conservation de tous les grands intérêts de la société. || Et quant aux calculs arithmétiques par lesquels l'honorable duc a terminé: "320 membres ayant fait une interpellation, l'extrême gauche de l'Assemblée repoussant la loi par la proposition que M. Peyrat a déposée l'autre jour", que pourra faire le Gouvernement? je ne m'arrête pas à cette objection: Savez-vous pourquoi, messieurs? C'est par un profond respect pour vous, et parce que je suis convaincu que, si 45 membres de l'Assemblée prétendent que vous n'avez pas le pouvoir constituant, et refusent d'examiner nos lois, si elles sont bonnes, dans les 320 membres qui ont signé l'interpellation, nous trouverons largement la compensation qui nous est nécessaire. (Rires d'approbation sur divers bancs. — Très-bien! et applaudissements à gauche et au centre gauche.)

A droite. La clôture! la clôture!

M. le président. On demande la clôture de la discussion. Je vais consulter l'Assemblée. . . .

(M. Waddington, ministre de l'instruction publique, monte à la tribune et remet à M. le président un pli cacheté.)

M. le président. Messieurs, avant de consulter l'Assemblée sur la clôture de la discussion, je dois lui donner connaissance d'un message que je viens de recevoir à l'instant de M. le Président de la République. Ce message est ainsi conçu:

"Versailles, le 23 mai 1873.

"Monsieur le président,

"Conformément à la loi du 13 mars 1873 qui m'autorise à prendre la parole sur les interpellations lorsqu'elles touchent à la politique générale de l'Etat, conformément à la déclaration des ministres qui reconnaissent ce caractère aux interpellations actuelles, je vous prie d'informer l'Assemblée de l'intention où je suis d'intervenir dans la discussion, usant ainsi du droit que me confère la loi, et que la raison seule suffirait à m'assurer si la loi n'existait pas." (Rires à gauche. — Mouvements divers.)

"Veuillez agréer, Monsieur le président, l'assurance de ma haute considération.

"*Signé:* A. Thiers."

Voix à droite. Tout de suite! tout de suite!

M. le président. Je dois rappeler à l'Assemblée les dispositions de la loi du 13 mars 1873:

"La discussion à l'occasion de laquelle le Président de la République veut prendre la parole est suspendue après la réception du message et le Président sera entendu le lendemain . . .," (Ah! ah!)

Veuillez me laisser terminer la citation:

"et le Président sera entendu le lendemain, à moins qu'un vote spécial décide qu'il le sera le même jour."

Si personne ne propose . . .

M. Raoul Duval. Je demande la parole.

M. le président. Il ne peut y avoir de discussion.

M. Raoul Duval. Je voulais seulement demander que M. le Président de la République fût entendu aujourd'hui.

Un membre. Cela dépend de lui!

M. le président. Permettez! Je viens de donner lecture à l'Assemblée des dispositions de la loi du 13 mars. Elles sont parfaitement claires sur ce point. Cette loi décide qu'après la réception du message la discussion est suspendue.

Il ne peut donc plus y avoir de débat jusqu'à ce que M. le Président de la République ait parlé.

Quant au moment où il sera entendu, la règle générale est de l'entendre le lendemain. Mais l'article 1er dont je viens de mettre les termes sous les yeux de l'Assemblée, dit: "à moins qu'il n'ait été décidé par un vote spécial que le Président de la République sera entendu le jour même . . ." (Exclamations diverses.)

M. Bertauld, *de sa place.* Le Président de la République n'est entendu séance tenante qu'autant qu'il est présent et demande à bénéficier de la disposition exceptionnelle, qui a été introduite en sa faveur et non contre lui. (Bruit prolongé.)

Nr. 5043. Frankreich. 3. Mai 1873.

M. le président. Messieurs, si vous voulez bien faire silence, je pourrais poser la question et consulter l'Assemblée sans aucune perte de temps.

Je dis que la solution de cette question appartient non pas au bureau, mais à l'Assemblée elle-même. Tout à l'heure, un de nos collègues, M. Raoul Duval, demandait à l'Assemblée de décider que M. le Président de la République serait entendu aujourd'hui. . . .

M. Thiers, *Président de la République.* Je demande . . .

A droite. La loi! la loi! — Vous n'avez pas la parole . . .

M. le Président de la République. Je demande que ce soit demain!

A droite. La loi! la loi!

M. le président. Je crois que le Gouvernement, par l'organe de M. le vice-président du conseil ou d'un de ses collègues peut parfaitement indiquer à l'Assemblée le moment qu'il préfère. (Assentiment.)

Si M. le vice-président du conseil désire exprimer une opinion sur ce point, je lui donne la parole.

M. le garde des sceaux. M. le Président de la République désire que la séance soit remise à demain. (Mouvement prolongé en sens divers.)

M. Raoul Duval monte à la tribune.

M. le colonel de Chadois. La décision doit avoir lieu sans débats!

Plusieurs membres à gauche. La discussion doit être suspendue!

Plusieurs membres de la droite s'adressant à M. Raoul Duval. Demandez le renvoi de la discussion à demain! — A demain, neuf heures du matin!

[Nach lebhafter Discussion wird beschlossen, den Präsidenten der Republik am folgenden Tage um 9 Uhr Morgens zu hören.]

Nr. 5044.

FRANKREICH. Sitzungen der Nationalversammlung vom 24. Mai 1873. — Fortsetzung der Diskussion über die innere Politik. Rede von Mr. Thiers. Annahme der motivirten Tagesordnung von Mr. Ernoul. Demission von Mr. Thiers. Annahme derselben und Wahl des Marschall Mac Mahon zum Präsidenten der Republik.

Première séance du samedi 24 *mai* 1873.

Présidence de M. Buffet.

Nr. 5044. Frankreich. 24. Mai 1873.

M. le président. La parole est à M. le Président de la République.

M. Thiers, *Président de la République.* L'Assemblée, qui me fait l'honneur de m'écouter, ne sera certainement pas étonnée de me voir à la tribune en ce moment. Si quelqu'un doit des explications à l'Assemblée et au pays sur cette politique, tant dénigrée hier, c'est moi assurément. Si je ne suis pas le seul responsable, — et je me hâte de dire que je ne suis pas le seul, car refuser à mes collègues, qui se sont dévoués à la même mission que moi, une part de responsabilité, ce serait leur refuser l'influence qui leur est due

et la participation qu'ils ont toujours loyalement apportée aux affaires, — si, dis-je, je ne suis pas le seul responsable, parce que je n'ai pas été le seul influent, je suis le principal et s'il y a un coupable, — je le dis devant l'Assemblée et devant le pays, — c'est moi! (Très-bien! très-bien! à gauche et au centre gauche.) || Et je ne crains pas de porter cette responsabilité devant vous, devant le pays qui nous écoute, devant l'Europe qui nous écoute aussi, et qui attache à nos affaires l'intérêt que l'on doit attacher à l'ordre général. Je suis dont le grand coupable; je viens le déclarer et m'expliquer ici avec la fierté d'une conscience honnête et la franchise d'un citoyen dévoué. (Vifs applaudissements à gauche et au centre gauche.)

M. de Lorgeril prononce quelques paroles qui se perdent au milieu du bruit.

M. le président. Veuillez ne pas interrompre, messieurs! J'invite les membres qui sont debout à s'asseoir, et je rappelle à l'Assemblée que le Président de la République a seul le droit de prendre la parole dans cette séance, et que, par conséquent, toute interruption serait non-seulement une infraction à l'ordre, mais une illégalité. (Oui! oui! — Très-bien! très-bien!)

M. le Président de la République. Permettez-moi, messieurs, en passant, cette réflexion. || J'avais raison, il y a quelques mois, lorsque, devant la commission des Trente, je disputais vivement pour que le Président de la République pût non-seulement prendre la parole sur les lois mais sur les interpellations; car toute la politique de l'Etat peut être comprise dans une interpellation. Oui, j'avais raison, au moins ce jour-là. J'aurais voulu être écouté davantage quand je désirais abréger les délais, dont vous aurez à souffrir peut-être dans cette discussion, si elle se prolonge. || Je suis donc, par la loi, et, comme je l'ai dit hier, par la raison, obligé de m'expliquer, moi surtout, devant vous. J'ai cru, et je ne me suis pas trompé, que dans cette occasion solennelle l'attaque se dirigerait spécialement contre moi. Cela doit être; je ne m'en plains pas, c'est à moi qu'elle devait arriver. C'est ainsi que je la prends, franchement, loyalement, sans détours. || Et certes, bien que dans mon opinion il eût été à la fois plus sage et plus patriotique d'attendre cinq semaines, — car dans cinq semaines l'étranger quittera notre sol . . . (Mouvement), — je n'ai pas hésité un moment à accepter, au jour même que fixeraient mes adversaires, cette grande discussion; je n'ai pas voulu l'éloigner d'un moment. || Seulement, il m'en coûterait, je dois le dire, en l'abordant si nettement, qu'on me fît une position qui n'est pas la mienne. On a vu quelquefois des ministres s'attacher à conserver le pouvoir, le disputer jusqu'au dernier moment. Je ne les blâme pas: l'ambition est permise dans un Etat libre, elle est quelquefois commandée par le devoir, et des hommes qui représentent une opinion et une cause font bien de lui conserver l'avantage du pouvoir le plus longtemps qu'ils peuvent. Je ne blâme donc pas les ministres qui, dans le passé, ont pu s'attacher au pouvoir et le défendre jusqu'à la dernière extrémité. Mais telle n'est pas ma position: je ne suis pas un ministre dans des circonstances ordinaires, qui ait désiré le pou-

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voir, qui l'ait recherché, qui s'efforce d'en prolonger la possession; non, je ne suis pas cela. || J'ai été appelé au pouvoir dans une des circonstances les plus graves de notre histoire, peut-être la plus grave, — car je ne sais pas une situation comparable à celle de la France en 1871. Celle de 1815, celle des temps passés, quand les Anglais occupaient la moitié de notre territoire, n'était peut-être pas aussi grave que celle que j'ai vue il y a deux ans et demi; — dans ces circonstances, vous le savez bien, je n'ai pas cherché le pouvoir, je ne l'ai pas désiré: j'en était épouvanté. Vous n'avez pas délibéré en me le donnant, je n'ai pas délibéré en l'acceptant. Vous et moi nous étions sous le poids de la nécessité. Pour moi, j'ose le dire sans crainte d'être démenti, — et je suis sûr que, si je suis démenti quelque part, ce ne sera pas dans le pays, — pour moi, j'ose le dire, lorsque j'ai accepté le pouvoir que vous m'avez offert, cela a été de ma part un acte de dévouement. (Applaudissements à gauche.) || Pendant que j'ai occupé ce pouvoir, — je puis le dire encore, personne ne me démentira, — je l'ai exercé abreuvé d'amertume.

Plusieurs voix. C'est vrai!

M. le Président de la République. Je le conserve encore aujourd'hui pour cette discussion; mais, quand votre verdict sera rendu, sachez-le bien, il ne faut pas le dissimuler, ce n'est pas à ces loyaux ministres que j'ai appellés à concourir avec moi aux affaires, c'est à moi, à moi seul, que ce verdict se sera adressé; c'est pour moi que je le prendrai. Il faut de la sincérité ici; et vous savez, maintenant, messieurs, quel sera le résultat de la décision que vous allez rendre. (Applaudissements à gauche.) || Toute équivoque sur le résultat du vote que vous aurez à émettre ayant disparu, le grand coupable étant ici devant vous, personne ne doutant plus que votre verdict s'adressera à lui seul, vous me permettrez, messieurs, de m'expliquer avec une entière franchise. (Ecoutez! écoutez!) || Je ne veux blesser personne ici, je ne veux surtout blesser aucune opinion, — je les respecte toutes, surtout quand je ne les partage pas; — personne n'a poussé plus loin que moi le respect de la conscience religieuse, et je regarde la conscience politique comme la plus respectable après la conscience religieuse. Mais, messieurs, l'occasion est solennelle; vous allez décider des destinées du pays; il faut que vous me permettiez de parler aux partis, aux individus, à tout le monde, avec la franchise que nous nous devons les uns aux autres. (Parlez! parlez!) || Eh bien, cette politique qu'on a dépeinte hier comme une politique à double face, — on n'a pas employé l'expression, j'en conviens, mais, dans l'ensemble, le sens était plus sévère encore que les paroles par lesquelles je le résume, — cette politique, dis-je, qu'on a dépeinte, comme une politique à double face qui tantôt s'adressait ici, tantôt là, qui ne donnait pas des faits mais des paroles, nous allons voir ce qu'elle a été. || Cette politique, messieurs, mes collègues pas plus que moi nous ne l'avons choisie; elle nous a été imposée par la situation des choses et la nécessité, et notre mérite, si nous en avons eu un, ç'a été de comprendre cette situation, de discerner

cette nécessité et d'y obéir, d'y obéir comme les honnêtes gens, les hommes libres obéissent aux situations, en en tentant un grand compte. Je défie, je l'ose dire, un homme de bon sens d'avoir suivi, dans les circonstances que nous avons traversées, une autre conduite que celle qui a été la nôtre. || Messieurs, songez à la situation du pays. Quand vous nous avez remis les affaires, il était envahi au nord par l'ennemi étranger, au midi par la démocratie, devenue démagogie sous l'impulsion des malheurs publics. De gouvernement nulle part, point de finances, point d'armée. Etait-ce le plus grand de nos maux? J'ose dire que non. Le plus grand, c'était la division, division immense qui n'a pas d'exemple dans l'histoire; et c'était avec un pays divisé, avec des partis antipathiques, qu'on me permette de le dire, les uns aux autres, qu'il nous a fallu dégager de cette situation une volonté unique, un gouvernement qui nous permît de suffire aux malheurs et aux nécessités du temps. || Eh bien, messieurs, vous nous regarderez, et vous nous jugerez, c'est votre droit; mais votre devoir, c'est de vous regarder vous-mêmes, et de voir dans quel état de division profonde et sans exemple vous vous trouvez ici. Croyez-vous donc que le Gouvernement soit facile dans des temps comme ceux-ci, et que, dans les apparences, il puisse toujours y avoir cette unité qui n'est pas en vous et qui n'est pas même dans le pays? C'est avec des efforts sans pareils qu'il faut essayer de dégager une unité qui rende le gouvernement possible. || Permettez-moi ici, messieurs, de décrire votre état, qui est non pas tout à fait celui du pays, — car la proportion des opinions qui est ici n'est pas exactement celle qui est dans le pays . . . (Assentiment à gauche.) — permettez-moi de vous présenter la situation telle qu'elle est, et promettez-moi de ne pas vous offenser du tableau véridique que je vais tracer devant vous. || Il y a d'abord une grande division, une très-grande division qui, à elle seule, suffirait pour troubler un pays: les uns veulent la monarchie, les autres veulent la République. Vous êtes tous dans votre droit. Il serait insensé, et je dirai arrogant, de prononcer ici un jugement sur les uns et sur les autres. Lorsque la monarchie a, pendant tant de siècles, fait la gloire et la prospérité de la France, il serait étrange qu'il ne restât pas dans notre pays de fidèles représentants de cette religion politique. Je suis donc loin de les blâmer; j'ai trop d'expérience des opinions et des hommes pour n'être point arrivé à cette impartialité qu'il faut avoir quand on veut juger un pays et un peuple, et qu'il faut avoir surtout quand on gouverne. || Vous êtes donc ici (l'orateur désigne la droite) pour la monarchie, et vous avez raison, et vous êtes dans votre droit. Mais si l'on est là (l'orateur désigne la gauche) pour la République, on a également raison et on est aussi dans son droit. Si, d'un côté, vous êtes, non sans motifs, effrayés de cette forme de gouvernement qu'on appelle la République, il ne faut l'être que dans la mesure de la sagesse; il ne faut pas l'être dans la mesure de la passion, qui égare. (Très-bien! à gauche.) || Et vous devez comprendre que, d'un autre côté, on a bien le droit aussi de croire que, dans l'état présent

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du monde, quand la démocratie, comme on l'a dit, coule à pleins bords, que la République, gouvernement naturel de la démocratie, sera, dans un temps, la fin des formes de gouvernement dans notre pays. Je ne dis pas qu'on ait raison, je ne dis pas que vous ayez tort, je dis que chacun a le droit de penser ainsi. ‖ Eh bien, ne sentez-vous pas, — soyez justes pour nous qui sommes sous le poids de cette situation, — que toutes les fois que nous touchons à ce grand sujet, on se divise en portions presque égales? Vous l'avez vu ces jours derniers; au fond, c'était ce même sujet qui s'agitait sous les deux noms si respectables de M. de Larcy et de M. Martel, dont vous respectez les uns et les autres le caractère, dont vous aimez la personne les uns et les autres: combien étiez-vous de voix? 304 contre 308, 323 contre 330. ‖ Il est donc bien vrai qu'ici la première, la plus grande des difficultés, surgit aussitôt que vous touchez à la question essentielle. ‖ On nous dit que c'est la question de conservation. Je ne nie pas que ce soit vrai à un certain degré; mais la vraie question, c'est celle qui vous divise ici en deux parts à peu près égales comme ici, mais dans les proportions plus tranchées. (Réclamations à droite. — Assentiment à gauche.) ‖ Sont ce là toutes les causes de nos divisions? Hélas! celle-là est déjà bien grande, bien grave, bien profonde; mais il y en a d'autres encore! Vous connaissez notre histoire aussi bien que moi. Regardez aux siècles écoulés; voyez combien la division, la discorde, si je puis ainsi dire, s'est acharnée sur notre pays, que de malheurs elle a semés sur nous! Et ces causes de divisions, ne croyez pas que je n'en voie que d'un seul côté, il y en a de tous les côtés. ‖ Au commencement du siècle dernier, la maison de Bourbon, qui régnait sans partage, n'était pas divisée: vous savez bien que la Révolution française l'a divisée. ‖ Ce n'est pas tout, cette terrible Révolution française, qui a fait tant de bien, — tant de bien mêlé, comme il arrive dans toutes les révolutions, mêlé de tant de mal, — elle nous a créé une troisième dynastie par la guerre. (Mouvements divers.) Ces faits, ils sont patents. ‖ Ainsi, quand je m'adresse de ce côté (l'orateur désigne la droite), je trouve des conservateurs, je le reconnais; mais j'y trouve aussi les représentants de trois dynasties. ‖ Et si je me tourne à gauche, n'y vois-je qu'une seule république? Non. C'est vrai. ‖ Il y a des hommes qui, comprenant très-bien la destinée de la République, comprenant très-bien les causes qui l'ont fait échouer, quand elle a paru dans ce pays, disent: Ce que la République doit faire, si elle veut se maintenir, c'est d'être non pas alarmante, mais rassurante. (Très-bien! très-bien! — Applaudissements au centre gauche.) ‖ Là est la question. Oui, le pays, on l'a dit souvent, le pays n'est pas républicain. Voici ce qu'il y a de vrai, je l'ai dit déjà, je le répète et je l'affirme: oui, dans les classes élevées, qui sont préoccupées de l'ordre, et qui ont raison, il y a des appréhensions, des répugnances; mais dans les masses, ne vous y trompez pas, la République a une immense majorité.

Quelques voix à droite. Non!

Voix nombreuses à gauche. Si! si! C'est la vérité!

M. le Président de la République. Je ne veux blesser aucune opinion, Dieu m'en garde! quand je sollicite, non pas pour moi, mais pour le pays une appréciation juste de la situation, croyez que je ne serais pas assez mal habile, assez mal inspiré pour vouloir blesser aucun de vous; mais je vous dirai seulement que si les masses pensent ce que vous pensez, les alarmes que vous exprimez tous les jours sont bien peu fondées, et ce serait une bien grande contradiction de vous dire si effrayés, si les masses sont à vous. (Rires d'assentiment à gauche.) || Permettez-moi de le dire, je ne fais pas de cette politique frivole et méchante de parti; je tâche de reconnaître la vérité partout où elle est. Oh! oui, si vous voulez dire que les masses sont mobiles et peuvent n'avoir pas toujours la même pensée, vous avez raison; mais je parle du temps présent, des nécessités présentes, et je n'hésite pas à dire et à répéter que le nombre est républicain. || Mais il y a dans le parti républicain des hommes assez sages pour comprendre que le sort de la République est attaché à cette condition: c'est qu'au lieu d'effrayer le pays, elle le rassurera. Et ils ont poussé, j'aurai le courage d'être juste envers tout le monde, ils ont poussé la raison jusqu'à comprendre qu'il fallait que leur République, pour ne pas effrayer, fût dans des mains d'hommes qui se recommendassent au pays par la conduite politique et sage de leur vie. Ils ont compris cela, et je ne les en remercie pas, parce que je semblerais les remercier en quelque sorte de m'avoir soutenu au pouvoir; mais je dis qu'ils ont parfaitement compris les nécessités de la situation. || Mais au-delà il y en a qui pensent autrement et qui, à mon avis, compromettent gravement le sort de la République. Au lieu de comprendre qu'elle doit être rassurante, que, pour être rassurante, elle doit être patiente, et qu'elle doit attendre que le temps ait prononcé entre tout le monde, ils croient qu'il n'y a de possible ou de désirable que la République avec les anciens républicains. Et, à cette doctrine, ils en ajoutent d'autres qui sont capables d'alarmer le pays et de lui faire prendre en aversion une forme de gouvernement que soutiennent les instincts des masses se portant vers la République. || Il y a donc ici trois dynasties, là deux républiques. (Mouvement.) Chacun dit: Voyez comme moi! gouvernez dans mon sens! || Il faut admettre que si on le dit d'un côté, on peut le dire de l'autre. || De l'un et de l'autre, on dit également: Gouvernez avec moi, gouvernez dans mon sens, gouvernez selon mes vues! || Que voulez-vous que fasse un gouvernement dans cette situation? Que de fois on m'a dit: Mettez-vous avec nous, nous vous suivrons. || Je remercie ceux qui tiennent ce propos sincèrement, mais je les supplie de considérer — et c'est ce que les partis ne veulent jamais voir, c'est en cela que consiste leur aveuglement, — qu'ils ne sont pas les seuls, qu'il y a à côté d'eux des hommes tout aussi respectables, aussi nombreux qu'eux, et qui, eux aussi, demandent qu'on gouverne dans leur sens. || Eh bien, messieurs, ici, je trouve le principe de ma conduite, le principe de la conduite de mes honorables

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collègues, qui sur la direction générale n'ont jamais différé avec moi. Oui, ce qu'il faut dans cette situation, ce n'est pas un Gouvernement de parti, je ne crains pas de le dire, c'est un Gouvernement qui soit inexorable devant le désordre, impitoyable même jusqu'à ce que l'ordre soit rétabli, jusqu'à ce que la paix soit rendue au pays, et, en même temps, quand le combat et le désordre sont finis, devienne calme, impartial, conciliant. || Ce n'est pas là un Gouvernement à double face, c'est un Gouvernement de gens éclairés. Et si, dans ce pays, vous faisiez un Gouvernement de parti, soyez convaincus que le repos public ne durerait pas longtemps. (Très-bien! à gauche.) || Traitez avec dédain cette politique, même avec pitié, comme on l'a fait hier; moi je ne crains les hauteurs de personne: par ma vie, par mes actes, et peut-être par quelques qualités bien modestes d'esprit, je suis capable de supporter les dédains. Vous pouvez dédaigner cette politique, comme on peut dédaigner ceux qui n'ont pas le courage de la suivre. Il est plus aisé de suivre un parti que de le contenir au dehors et de tâcher de lui faire entendre raison. (Très-bien! à gauche.) || Dédaignez cette politique; moi, je plains ceux qui ne sauraient ni la comprendre ni avoir la force de la soutenir. Il m'a fallu bien plus de force de caractère et de volonté pour tenir cette conduite, que pour me donner à un parti et lui obéir aveuglément. || Et croyez vous que cette impartialité soit du scepticisme? Non, messieurs, je n'ai de scepticisme d'aucune sorte: ce n'est pas ma nature, ce n'est pas celle de mon esprit, ce n'est pas celle de mon caractère. Les résolutions nettes et décidées sont les seules conformes à ma nature. Je ne suis pas plus sceptique en politique que je ne le suis en philosophie. Je suis arrêté dans mes vues. Ce n'est pas que je ne croie pas à une vérité politique, ce n'est pas cela; mais ce que je crois, je le répète, c'est que le gouvernement de parti serait désastreux pour mon pays. || Voilà l'inspiration de notre politique; c'est elle qui a réglé tous nos actes. Et permettez-moi que — quoiqu'on veuille oublier le passé ou le traiter avec une parfaite ignorance, qui est très-commode, — de vous rappeler les actes principaux de cette politique et de vous faire voir combien il y a eu d'unité dans ma conduite personnelle et dans celle de mes honorables collègues qui se sont dévoués à la même pensée que moi. || Eh bien, cette politique, elle avait une double tâche. La première était une tâche d'urgence. Dans l'état où était le pays, il y avait une chose urgente à faire: il fallait faire la paix; il fallait réorganiser le pays, dégager le territoire. || Il y avait une seconde tâche, tâche d'avenir, tâche de prévoyance, dont le but devait être d'essayer, lorsque le provisoire serait devenu impossible, de vous diriger vers les formes de gouvernement non pas éternelles . . . — l'éternité n'appartient qu'à Dieu, à l'homme appartient la durée quand il est sage, — et quand je dis "Vous diriger vers des formes de gouvernement", je ne veux pas parler avec ce langage qui blesse la conscience, ou avec cette arrogance qui fait croire qu'on enchaîne l'avenir, mais avec la prudence et la sagesse d'hommes qui acceptent les situations et savent y suffire. || La tâche de prévoyance, la tâche d'avenir,

celle qui commence aujourd'hui, elle devait venir après l'autre. Eh bien, cette politique dont je parlais tout à l'heure est celle qui nous a inspirés dans la tâche d'urgence et qui nous inspire aujourd'hui dans ce que j'appelle l'oeuvre d'avenir. Je vais dire quelques mots de l'oeuvre d'urgence; vous allez voir combien la politique dont je parlais tout à l'heure, et que j'appelle la directrice de notre conduite, a eu d'influence sur ce que j'appelle la tâche d'urgence. || Quelle était la situation? Je vous le rappellerai en peu de mots, non pas pour m'attirer de la reconnaissance, — je connais les hommes, ce n'est pas cela que je demande, — mais de la justice . . . — de la justice, non pas pour moi, à mon âge, je n'ai besoin que d'une mémoire honorable, et j'espère la laisser après moi. (Oui! oui! — Légères rumeurs à droite.) || Non, je ne crains pas pour ma mémoire, car je n'entends pas paraître au tribunal des partis, — devant eux, je fais défaut; — je ne fais pas défaut devant l'histoire, et je mérite de comparaître devant elle. (Bravos et applaudissements à gauche.) || Je rappelle donc les faits: 400,000 hommes occupaient le nord de la France jusqu'à la Loire; de deux armées ennemies, l'une menaçait Bordeaux, l'autre menaçait Lyon. Quant à nos armées, les unes, après des efforts très-honorables, étaient rejetées en Suisse, les autres dans les places du Nord, les autres au delà de la Loire. De moyens de résistance, il n'y en avait pas. La passion en faisait supposer, la passion égarait: il n'y en avait pas! Je l'ai vu. Et quand, pour ma part, je me suis dit qu'il fallait faire la paix, j'avais la conviction profonde que poursuivre la guerre était un acte insensé. Nous n'avions donc plus d'armées; il fallait faire la paix. || Nos finances, elles consistaient en quelques secours de la Banque de France. L'impôt ne revenait plus au Trésor, il restait dans les provinces. De crédit, nous n'avions que celui que dans une situation pareille on peut avoir. || Sans la Banque, qui faisait crédit à l'avenir de la France, — non pas à son présent, je le dis bien haut, — nous n'aurions pas pu exister. || Le désordre, l'anarchie partout. Ce n'était pas la démocratie, c'était la démagogie, arrivée au dernier degré d'exaltation, qui disposait de toutes les villes du Midi, toutes en armes, toutes coalisées, et qui disposait surtout de Paris, où se trouvait un peuple nombreux, habitué depuis quatre mois à la présence de l'ennemi, armé de 400,000 fusils que depuis nous lui avons arrachés en le désarmant, et de plusieurs centaines de bouches à feu, et de ces murailles qui avaient arrêté pendant quatre mois les Prussiens; la démagogie était le seul gouvernement du pays dans le moment. Eh bien, je le dirai, le désespoir était dans les âmes et la division entre vous. (Mouvement.) Ce tableau est-il exagéré? || Rappelez-vous vos alarmes de ce moment-là, vos justes alarmes, je dirai presque notre désespoir, si notre courage, très-méritoire à tous, n'avait surmonté les sentiments que nous éprouvions. Eh bien, qu'ai-je dit alors? Après avoir réfléchi toute une nuit avant de vous apporter l'exposé qui a suivi le moment où vous m'aviez conféré le pouvoir exécutif, je me suis dit ceci: Mais si nous nous livrons tous à nos passions de partis, à nos préférences,

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quelque respectables qu'elles soient, ferons-nous quelque chose? Créerons-nous un pouvoir? Créerons-nous des finances? des armées? Obtiendrons-nous de l'ennemi qu'il évacue le territoire? Non! Et je vous ai tous suppliés de déposer vos préférences, non pas de les détruire dans vos âmes, — on ne refait pas l'âme humaine, — mais de faire entre nous une trêve qui nous permît de pourvoir à l'oeuvre si pressante que nous avions à accomplir. Je vous l'ai dit; cela a été le pacte de Bordeaux, et vous vous rappelez peut-être l'image que j'employais alors, lorsque ce noble blessé qu'on appelle la France aura recouvré ses forces, alors plus calmes, — hélas! j'ai mal prévu, j'espérais que nous serions plus calmes . . . (Léger mouvement.) — vous pourrez, vous disais-je, lui remettre son sort à lui-même et il en décidera. || Quant à moi, ajoutai-je, — et c'était mon engagement personnel, — vous me remettez la République, je vous rendrai la République. Et ce n'était pas un acte de loyauté envers le parti républicain, c'en était un envers vous-mêmes. Car si j'avais favorisé clandestinement la monarchie, comme on ne pouvait pas appeler au trône trois dynasties, j'en aurais servi une et trahi deux. (Rires approbatifs à gauche.) || Eh bien, messieurs, la situation est-elle ou n'est-elle pas changée? L'oeuvre d'urgence dont nous avions assumé l'accomplissement est-elle accomplie? Je le demande à votre équité. La paix a été faite, paix douloureuse, paix cruelle. Qui le ressent plus que l'infortuné qui a été obligé de la signer? Et cependant, quand nous n'avions d'autre moyen d'action que le grand nom de la France, son passé, son avenir, que personne n'a jamais méconnu, dans un moment de désespoir, dont je m'effraye quand j'y pense, qui a produit une scène de discussion de quinze heures, j'ai arraché à la toute-puissance de nos vainqueurs la frontière de l'Est, Belfort. Je suis encore effrayé lorsque j'y pense; car j'ai bravé un renouvellement de la guerre quand nous n'avions plus les moyens de la faire. Cette paix si douloureuse, savez-vous ce qui me console de l'avoir signée, c'est qu'enfin la frontière de l'Est a été sauvée. || Mais la paix que l'on signe en un jour, c'est la paix nominale; la paix sérieuse, c'est la libération du territoire! || Nous avons obtenu d'abord le retrait des troupes allemandes de la Loire à la Seine; c'est la seule concession qu'on nous ait faite: l'ennemi est encore resté en possession d'une moitié du périmètre de Paris. Mais, enfin nous avons eu une paix nominale, et nous aurons bientôt la paix définitive par l'évacuation totale. || Nous avons eu la paix nominale; mais ce n'était pas tout: il fallait établir un Gouvernement, établir l'ordre. Nous n'avions point d'agents: il a fallu nommer çà et là des hommes que souvent nous connaissions à peine. Nous étions à Bordeaux, loin du centre des affaires et des renseignements; nous avons nommé des préfets, des sous-préfets pour créer, en courant, d'urgence, un ordre quelconque. Les villes du Midi, en voyant que nous ne touchions pas à la République, n'ont pas abusé des armes qu'elles avaient entre les mains: elles ont gardé la neutralité; c'est à Paris seulement qu'il a fallu nous porter. Je ne vous ai jamais conseillé de vous y rendre. Je vous

ai conseillé de vous rendre aux environs de Paris, dans la position la plus forte, celle de Versailles. || Qu'avions-nous pour vaincre le radicalisme devenu communisme? 18,000 hommes toujours braves, mais plongés au milieu de cette population incandescente de Paris; 18,000 hommes non pas démoralisés ou découragés, — non, il ne serait pas juste de le dire, — mais troublés. C'est hors de Paris que nous avons dû faire une armée. En cinq semaines nous sommes parvenus à réunir 150,000 hommes sous les murs de Paris. Tous les généraux de cette noble armée, qui ne voyaient pas en moi un ami, — car je représentais un Gouvernement tout autre que celui qu'ils avaient servi, — sont arrivés avec une loyauté sans égale, et ils me rendaient justice en ne discernant pas en moi un homme de parti. Ils m'ont dit: Notre épée est à vous, c'est-à-dire, au pays, pour le rétablissement de l'ordre. Aidé de tous ces braves gens dont j'ai pu apprécier le mérite et des 150,000 hommes que nous avions réunis, nous avons attaqué Paris. || On a parlé de négociations! Moi, complaisant du radicalisme, sujet du radicalisme, j'ai écouté ceux qui sont venus me dire: "Ne faites pas verser des torrents de sang, écoutez-nous! On peut transiger; vous entrerez dans Paris, le Gouvernement y siégera, mais l'armée n'y entrera pas!" || J'ai été indigné de ces paroles: L'armée n'y entrera pas! C'est alors que j'ai dit: Vous parlez de torrents de sang! mais l'armée c'est la France, elle entrera dans Paris comme le Gouvernement, avant le Gouvernement; l'armée doit être partout, elle y sera! J'ai donc bravé de cruelles extrémités. (Mouvement.) S'il y a un homme à qui coûte l'effusion du sang, c'est moi, j'ose le dire. J'ai bravé toutes les chances, toutes les extrémités de cette guerre affreuse. Moi, complaisant du radicalisme, du communisme, j'ai écrasé . . . — quand j'ose dire moi, ce sont les braves gens qui voulaient bien écouter ma voix, — nous avons écrasé cette faction détestable, et nous l'avons écrasée, j'espère, pour longtemps. (Mouvement prolongé.) || Et alors la confiance est revenue, quand on a vu non pas ce qu'on appelle un Gouvernement vaillant, un Gouvernement regardant ici ou là, mais un Gouvernement qui regardait devant lui, qui allait droit à l'avenir, qui savait ce qu'il voulait, la confiance est rentrée dans les esprits, la sécurité dans les coeurs, l'industrie a repris son activité, le crédit nous a été rendu, et nous avons pu commencer ces emprunts prodigieux pour lesquels il n'y avait pas d'expérience, parce qu'il n'y avait pas d'exemples. Nous avons fait un premier emprunt de deux milliards, nous avons soldé une première partie de l'indemnité; et, en présence de notre ponctualité dans une situation aussi grave, nous avons obtenu la libération de Paris. Le périmètre de Paris où il m'était si douloureux de voir tous les jours des soldats étrangers, nous a été rendu. On nous a rendu le territoire jusqu'à la Marne. || La confiance a continué, elle s'est accrue. Cette politique, qui vous paraît si condamnable, a été une politique d'apaisement. L'apaisement a produit la confiance, et nous avons pu faire ce nouvel et dernier emprunt de trois milliards et demi, qui avait bien moins d'exemples encore que le précédent, qui épouvantait tout le monde. On

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nous a offert 43 milliards. Je n'ai pas pris cela au sérieux; mais ce que j'ai pris au sérieux, c'est la confiance qui nous faisait de telles offres. || On m'a dit quelquefois — les partis disent tout! — "Vous payez l'indemnité; beau mérite! Vous prenez l'argent dans nos poches." (Sourires.) Je demanderai: où puis-je le prendre, si ce n'est dans les épargnes du pays? (Marques d'assentiment.) || Savez-vous quel est le mérite? Je ne veux pas le grossir: c'est la confiance que cela fait supposer, et les intérêts sont meilleurs juges que les partis; quand ils prononcent, ils faut les en croire, parce qu'ils sont sur eux-mêmes parfaitement éclairés. || Eh bien, nous avons pu alors assurer l'affranchissement définitif du territoire. Aujourd'hui, tandis que toutes les places financières de l'Europe sont gênées, qu'il y a des crises partout, nous qui avons à payer des sommes si énormes, nous étonnons l'Europe par la ponctualité de nos payements. (Marques d'assentiment.) Nous avons payé 4 milliards, la dernière portion de ces 4 milliards a été versée il y a quinze jours; le payement du dernier milliard va commencer dans huit jours; les fonds sont assurés. || Pour les 250 millions composant le premier quart du dernier milliard, les fonds sont déjà faits, sauf une faible somme qui sera transportée par les chemins de fer. Les fonds pour le 1er juin sont prêts; ils sont assurés pour le 1er juillet, ils sont assurés pour le 1er août, pour le 1er septembre; et j'espère que la sagesse, si elle n'est pas dans les paroles, étant dans les actes, rien ne troublera l'affranchissement définitif de notre pays. (Très-bien! très-bien! à gauche.) || Mais est-ce tout? J'ose dire à ceux qui prétendraient que nous n'avons pas d'alliances, qu'ils se font une étrange idée de notre situation aux yeux de l'Europe. Je pourrais, s'il m'était permis, pour une satisfaction personnelle, de faire connaître l'état vrai des sentiments de l'Europe, je pourrais, dis-je, les étonner beaucoup. || Des alliés, messieurs! dans l'état du monde, après la politique insensée qui a brisé ce qu'on appelait l'équilibre européen, qu'elle affectait de mépriser, il n'y a plus d'alliés pour personne. La vraie alliance, elle est dans l'estime qu'on inspire. Eh bien, je l'ose dire, la France, en montrant une vitalité si grande, a presque réparé par cette vitalité l'atteinte que ses défaites avaient portée à son prestige. On croit à la France, en voyant la conduite de son Gouvernement, qui n'a qu'un mérite, mais un mérite qui est peut-être réel: c'est la suite dans ses desseins, c'est la conséquence dans sa conduite. || Ainsi nous réparons nos forces militaires devant toute l'Europe. Elle le voit, nous ne le cachons pas; je l'ai toujours dit franchement, car on ne trompe personne, et il n'y a rien de plus puéril que de recourir au mensonge, surtout devant des gouvernements éclairés comme ceux d'Europe; nous réparons nos forces, parce que nous ne voulons pas que la France soit déchue de son rang, parce que nous voulons qu'elle pèse dans les conseils de l'Europe ce qu'elle doit peser; mais nous voulons la paix, nous la voulons franchement; elle est pour ainsi dire systématique chez nous. Nous avons obtenu ce résultat qu'on assiste sans crainte à nos armements. Une partie de l'Europe en souhaite le succès;



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Französische Republik.

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l'autre partie l'admet, et tous croient à la parole que nous avons donnée: c'est que nous voulons la paix, qu'elle est notre système, à moins que des intérêts majeurs ne nous forcent à y renoncer. (Très-bien! très-bien!) ‖ Eh bien, je le dis, la véritable alliance est l'estime qu'on inspire à l'Europe, et nos successeurs en trouveront la preuve dans des archives que je ne peux pas ouvrir ici devant vous. ‖ Je pourrais ajouter que l'armée se réorganise; que tous les juges compétents admirent sa tenue; que les grandes questions de son armement sont résolues; que la grande fabrication commence, qu'elle a commencé, et que, sous ce rapport, nos successeurs pourront se convaincre que le temps n'a pas été perdu. ‖ Quant à l'ordre, quoi qu'on en dise, vous savez qu'il est tellement maintenu à l'heure qu'il est, — et c'est la première fois peut-être, car lorsqu'on a fait le Deux-Décembre, que nous disait-on? qu'à tous moments nous devions nous attendre à quelque bataille, — l'ordre est tellement maintenu à l'heure qu'il est, qu'à l'heure qu'il est on ne peut pas dire cela. Il n'est pas supposable, et les partis même ne peuvent supposer, qu'il y ait des troubles à craindre pour l'ordre matériel. ‖ Le genre d'argumentation qu'on nous oppose le prouve. On nous dit: Mais qu'est-ce que l'ordre matériel! C'est l'ordre moral qui est la chose essentielle. ‖ Je conviens que l'ordre moral est la chose la plus importante; mais il ne peut reposer que sur l'ordre matériel. Et, puisqu'on dédaigne tant l'ordre matériel, qu'on en parle avec si peu de considération, qu'on me permette de dire que c'est la preuve, puisqu'on le dédaigne, qu'il est obtenu. Qu'on en tienne donc compte! (Vive approbation à gauche et au centre gauche.) ‖ Eh bien, croyez-vous qu'avec une politique de parti, une politique irritante, une politique de combat, puisque c'est le mot adopté, croyez-vous, dis-je, que vous auriez produit et obtenu cet apaisement, relatif, je le reconnais, mais enfin cet apaisement? Mon Dieu! ce qui se passe ici prouve qu'il peut être interrompu souvent; — néanmoins, c'est cet apaisement qui a permis à l'industrie, au commerce, à toutes les facultés du pays de se développer, qui a permis au crédit de s'établir, à ce point que, comptant sur votre sagesse, il se soutient . . . (Mouvement), qu'au lieu d'une panique il se contente de quelques variations; c'est un hommage qu'il vous rend. (Rires approbatifs à gauche et au centre gauche.) ‖ Je maintiens qu'avec une politique de parti, vous n'auriez pas même obtenu cet apaisement relatif auquel vous devez l'élévation ou la conservation de notre crédit et la libération du territoire. Oui, voilà la tâche d'urgence. ‖ Mais la tâche d'avenir! Oh! là est la difficulté, et elle est très-grande. C'est là qu'est l'ordre moral. ‖ C'est cet ordre moral qu'il faut rétablir. Mais ce qu'il y a de singulier, d'étrange, c'est que ceux qui demandent l'ordre moral, oubliant qu'ils en font partie, le troublent pour leur part considérablement. (Très-bien! très-bien! à gauche et au centre gauche.) ‖ En quoi consiste cet ordre moral? Définissons-le exactement. Cela veut-il dire que la France serait démoralisée? Non, messieurs; on nous avait accusés d'immoralité, on avait dit qu'il n'y avait point de religion en

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France. Puis, après l'avoir souvent répété, on se vante — et on a raison, — de l'affluence dans les églises. On disait que la spéculation effrénée avait affaibli nos caractères, les avait abaissés. Regardez hors du pays, — Dieu me garde d'offenser personne! — dites-moi si ces spéculations effrénées ne règnent pas ailleurs que chez nous et avec bien moins de réserve, avec bien moins de sagesse, avec bien moins de solvabilité, et la solvabilité est une probité dans les affaires, — avec bien moins de solvabilité que chez nous.

A gauche et au centre gauche. C'est vrai! Très-bien! très-bien!

M. le président de la République. Quand on parle de l'ordre moral menacé dans le pays, cela ne signifierait rien, rien de vrai au moins, si on appliquait cela à la moralité du pays. ‖ Que veulent dire ces mots: l'ordre moral troublé? ceci uniquement: la division! C'est que nous avons devant nous une question immense, cette question de la forme du gouvernement, à laquelle, à mon avis, on donne trop d'importance. Elle en mérite sans doute beaucoup; mais la politique pratique, qui fait les affaires du pays, devrait passer avant cette politique théorique, qui attache aux formes de gouvernement tant d'importance. ‖ Je ne veux pas, encore une fois, nier qu'elle en ait beaucoup. Cette question de la monarchie et de la république, ella a troublé tous les Etats, elle a fait couler des torrents de sang. Je ne méconnais pas son importance; mais, au fond, si vous voulez être justes, là est la difficulté, là est le trouble. (Très-bien! très-bien!) ‖ On disait hier: "Cela n'est pas la question; nous ne sommes pas des monarchistes, nous sommes des conservateurs!" Je vous dirai que nous aussi nous avons la prétention de l'être, et peut-être, permettez-moi de vous le dire, nous en avons le droit; et j'éprouve un certain sentiment que je contiens à peine, quand je vois des hommes beaucoup plus jeunes que moi et qui ont encore dans la politique apporté plus de paroles que de faits, mettre en doute mon esprit conservateur. (Applaudissements et rires d'assentiment à gauche.) ‖ Nous ne sommes pas des monarchistes, nous sommes des conservateurs, dites-vous. Eh bien, permettez-moi de vous le dire, il vous arrive quand vous dites cela ce que, selon vous, il arrive à M. Casimir Perier, à M. Bérenger, à M. Waddington, quand ils disent qu'ils sont conservateurs. Vous nous avez dit hier avec la liberté dont vous avez usé à notre égard, dont j'ai le droit d'user à mon tour et dont j'userai avec ménagement; vous nous avez dit: On ne vous croit pas. Eh bien, à mon tour, quand vous dites que vous n'êtes pas monarchistes, que ce n'est pas le sentiment qui vous anime, permettez-moi de vous dire: On ne vous croit pas! (Très-bien! très-bien! et applaudissements prolongés à gauche et au centre gauche.)

M. Lestourgie. On ne doit pas applaudir dans les tribunes! On a applaudi dans la tribune présidentielle, et c'est M. le préfet de la Seine. (Rumeurs diverses.)

M. le président. Si quelques manifestations ont lieu dans les tribunes,

la tribune où cette manifestation se sera produite sera immédiatement évacuée. (Très-bien!)

M. le marquis de Sers. C'est scandaleux! Faites évacuer la tribune du Président de la République!

Plusieurs voix à droite. Oui! oui! faites évacuer la tribune! (Agitation.)

M. le président. Veuillez faire silence, messieurs! c'est au président de l'Assemblée qu'appartient le maintien de l'ordre. (Très-bien! très-bien! — L'agitation cesse et le silence se rétablit.)

M. le Président de la République. Messieurs, soyons sincères, les uns et les autres. ‖ Oui, et je le répète, c'est parfaitement respectable: les uns tendent à la monarchie, les autres tendent à la République. Ce qui nous divise ici, ce qui fait l'embarras du moment, c'est surtout cette question; il n'y en a pas une autre. ‖ Sans doute, si vous voulez parler des dangers qu'une mauvaise législation électorale peut faire courir au pays, nous sommes d'avis qu'il faut y pourvoir, et nous avons apporté des lois dans ce but; conservateurs sous ce rapport, nous le sommes tous. Mais la question qui nous divise, il faut être sincère, c'est la question dont je parlais tout à l'heure. Eh bien, voyons! mettez-vous à notre place: comment voulez-vous que nous la résolvions? comment pouvons-nous nous y prendre? ‖ Je vous exprimerai ici mes sentiments, permettez-moi de le dire, sans amertume, bien que je nierais la vérité, si je disais que je n'en ai pas dans le coeur; mais il n'y en a ni dans ma conduite ni dans ma bouche. Je sais bien que cette franchise vous inspire à notre égard très-peu de bienveillance, et que de ce côté qui tient à la République, on a pour nous une faveur que nous n'avons rien fait pour acquérir. Je n'ai désavoué aucune de mes opinions, et je pourrais prouver ici que, sur les questions qui intéressent le plus la politique conservatrice, j'ai été plus conservateur que la plupart de ceux qui m'interrompent et qui ont abandonné des questions conservatrices que j'ai soutenues jusqu'à la dernière extrémité. Je n'ai qu'un titre, celui que m'a donné votre faveur, celui que m'a donné celle de mes collègues qui sont là (la gauche), c'est d'avoir tenu ma parole, c'est d'avoir pris mon parti sur la question de la République. Je l'ai pris, oui, je l'ai pris. ‖ Le fond de la question, pour ce qui me regarde, est là. J'ai mon parti pris, savez-vous pourquoi? ‖ Quand on est dans son cabinet, avec ses livres si chers, que l'on est si heureux de parcourir, où l'on est témoin des injustices que d'autres hommes ont éprouvées, où l'on n'est responsable et jugé que devant sa conscience, eh bien, quand on a ce bonheur, que peut-être vous me rendrez, — et vous me ferez bien heureux, — quand on a ce bonheur-là, on peut délibérer comme un philosophe, comme l'a fait Montesquieu, sur les avantages et les inconvénients de la République; on peut délibérer sur les beautés de la monarchie. ‖ Mais quand on est au Gouvernement, il faut prendre son parti. Est-ce que vous croyez que, quand on a gouverné deux ans et demi, bientôt trois ans, dans le provisoire, entre un parti qui dit: "Je ne puis pas faire la république dans ce

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semestre, je garde le pouvoir constituant et je pourrai peut-être la faire dans le semestre suivant!" quand, de l'autre, il y a des gens que cette attitude remplit de méfiance et qui, au moindre acte même conservateur, regardent si là-dessous ne se cacherait pas une intention monarchique . . . (Mouvements divers), est-ce que vous croyez qu'on peut continuer à gouverner longtemps dans ces conditions? Et par exemple, quand on a dit ici: "Le gouvernement ne sera pas définitif, il sera provisoire", quand on a dit cela, quand on l'a voulu, quand on l'a obtenu, quand nous vivons dans le provisoire depuis bientôt trois ans, deux ans et demi au moins, si encore on avait la justice, l'équité de ne pas venir nous dire hors du parlement, dans l'arène des partis: Vous n'êtes qu'un gouvernement provisoire! on n'a pas à se gêner avec vous; vous êtes provisoires, vous ne serez plus dans quinze jours, vous ne serez plus dans six mois! Et ceux-là même qui nous ont demandé le provisoire nous en font un crime lorsqu'ils sont hors d'ici. Est-ce que vous croyez qu'avec tout cela l'on peut gouverner? . . . || On nous parle de la fidélité au pacte de Bordeaux; et puis, chacun de son côté, — je ne fais pas le reproche aux uns sans le faire aux autres, — dit: Je ne reconnais que telle monarchie, pas la même malheureusement; — moi, je ne veux que telle république, nous n'en voulons pas d'autre! Chacun proclamant la sienne, et dans la presse, dans les banquets, on tient là, — permettez-moi de le dire, — un langage attentatoire à l'ordre et au vrai repos des esprits Est-ce que vous croyez qu'une nation peut durer longtemps lorsque d'un côté on boit à la chute de la République, et que de l'autre on célèbre telle ou telle dynastie? Je ne fais de reproche à personne; mais quand on se livre à ses passions, on devrait comprendre qu'on provoque les passions contraires. (Très-bien! très-bien! — Applaudissements à gauche et au centre gauche.) Eh bien, quand après deux ans et demi, et toutes les fois que le moment approchait où la question allait être soulevée, quand nous avons vu les esprits s'enflammer, nous nous sommes dit: nous ne pouvons pourtant pas rester éternellement dans cette situation! Et alors pour notre part, sans aucune prétention de résoudre cette question au profit ou aux dépens des uns ou des autres, ayant toujours la résolution de l'apporter devant vous, nous nous sommes dit qu'au moment déterminé dans ce que vous appelez le pacte de Bordeaux, au moment où le pays aurait recouvré ses forces, sa santé, son calme d'esprit, à ce moment, il faudrait décider ses destinées, non pas, je le répète, avec cette arrogance qui fait croire aux hommes qu'ils font une constitution définitive, qu'ils travaillent pour l'éternité, mais avec le positif, la précision, la netteté de gens qui veulent une loi indiscutable et respectée, et qui ne croient pas que l'ordre soit possible lorsque tous les jours on permet d'attaquer, de saper les bases et de bafouer les principes d'un gouvernement! (Vive approbation à gauche.) || Ce n'est pas de notre part une impatience théorique, une satisfaction de notre opinion personnelle, c'est la constatation d'une nécessité pratique; c'est ce qui a fait que nous avons pris notre parti,

et quand je dis notre parti, nous n'avions aucun droit, aucune prétention de le prendre tout seuls, car c'est à vous, messieurs, qu'il appartient de décider, — j'ai toujours reconnu votre souveraineté. || Mais, comme Gouvernement, nous devions avoir une opinion, c'était indispensable; il faut bien que l'Assemblée trouve dans le Gouvernement institué par elle une politique qu'elle puisse suivre ou modifier. Nous avons donc pris notre parti, et permettez-moi de vous le dire, je ne voudrais pas blesser, je ne voudrais pas vous déplaire, — mais savez-vous quelle est la raison qui m'a décidé, moi, vieux partisan de la monarchie, outre le jugement que je portais en considérant la marche générale des choses dans le monde civilisé? C'est qu'aujourd'hui, pour vous, pour moi, pratiquement, la monarchie est absolument impossible. || Et je ne veux pas vous déplaire davantage en vous en donnant les motifs. Mais vous le savez bien, et c'est ce qui vous justifie de ne pas venir, au nom de votre foi, nous proposer le rétablissement de la monarchie; car, enfin, ce serait votre droit. Puisqu'on propose ici telle ou telle république, vous avez le droit de proposer telle ou telle monarchie. Pourquoi ne le faites-vous pas? Pourquoi, vous qui êtes plus calmes que tels et tels autres, — je ne veux pas faire de personnalités, — pourquoi leur dites-vous qu'il serait imprudent de venir ici proposer la monarchie? Pourquoi, par exemple, quand la polémique s'engage entre vous et nous, vous hâtez-vous de dire: "Non, ce n'est pas comme monarchistes que nous parlons, c'est comme conservateurs!" C'est convenons-en, de bonne foi, que vous-mêmes sentez que, pratiquement, aujourd'hui la monarchie est impossible. (Mouvement.) Je n'ai pas besoin d'en dire la raison encore une fois, elle est dans votre esprit à tous: il n'y a qu'un trône, et on ne peut pas l'occuper à trois. (Rires à gauche.) || Et quand on nous dit qu'on est d'accord, oh! oui, d'accord aujourd'hui, mais selon votre verdict, certainement on ne le sera pas après-demain. Oui, voilà la raison et la nécessité d'avoir un Gouvernement qui ne soit pas contesté tous les jours, bafoué tous les jours, oui, contesté à ce point que, pour certains troubles où on avait poussé des cris vraiment séditieux, et quand nous nous sommes adressés à la justice, elle nous a répondu: "Le principe du Gouvernement n'est pas consacré!" Et on considérait cela comme un trouble nocturne! || Il n'est pas possible, je le répète, de vivre longtemps sans que le principe du Gouvernement soit établi et respecté. || La seconde raison, c'est celle que je vous disais: si, à droite, les plus honnêtes gens, les plus fidèles, les plus fervents dans leur foi, prouvent par leur silence, qu'ils ne peuvent pas eux-mêmes aujourd'hui, dans l'état des esprits et des partis, faire la monarchie, est-il étonnant que nous à qui, — pardonnez-moi une expression qui appartient au barreau, auquel je suis malheureusement étranger, — que nous à qui incombe la nécessité d'avoir une opinion, de donner l'exemple au pays, de lui faire des propositions, nous ayons tenu la conduite qu'on a tant blâmée? || Je regrette vivement les deux collègues qui se sont séparés de nous et qui, jusques-là, avaient été toujours d'accord avec nous. C'est

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malgré moi qu'ils ont quitté le cabinet. Je ne nie pas que j'aie cru devoir leur demander leur démission. Cela est vrai; vous me permettrez de ne pas entrer dans les personnalités; cela ne servirait qu'à égayer la malignité publique sans profiter au pays. Mais si j'ai été obligé d'agir ainsi, c'était afin d'arriver devant vous avec un gouvernement un et homogène, afin que l'on ne pût pas venir me dire comme on aurait pu le faire il y a quinze jours: "Vous êtes désunis!" Je me suis adressé à des hommes dont je n'ai pas à faire l'éloge, — mon amitié n'est pas un devoir pour vous, vous n'avez pas à vous en préoccuper; — mais vous ne nierez pas qu'il n'en est guère de plus considérables ni de plus respectables dans notre pays. ‖ Quel a été leur titre à mes yeux? C'est que, comme nous, ils avaient pris leur parti. ‖ Ce parti, l'avons-nous pris en aveugles ou bien en arrogants, usurpateurs de votre autorité et prétendant résoudre la question à nous seuls? non. Dans mon message, si maltraité, je vous avais seulement dénoncé la question et la nécessité de la résoudre, en vous disant qu'à vous seuls appartenait cette juridiction, et en ajoutant que, quant à la nature des institutions, dès que vous nous donneriez un signal, à l'instant même nous vous dirions, sur ces institutions, notre opinion, sous notre responsabilité et sauf votre jugement. Depuis, la commission des Trente a été formée; avant, il y en avait eu une autre. A quoi ont abouti ces deux commissions? A ce qui me semble être la justification de ce message, qui n'avait fait que dénoncer la question: elles ont abouti à nous commander de présenter des lois, qui n'auraient rien fait si elles n'avaient pas résolu la question. ‖ Comment voulez-vous, en effet, qu'on fasse des lois organiques si l'on n'est pas fixé sur le principe du Gouvernement? (Mouvements divers.) Ces lois sont un acte de déférence envers vous. Elles méritent, je crois, considération. Je ne dis pas qu'on doive les lire en quarante-huit heures; mais j'espère qu'on finira par les lire, et quand on les aura lues, on jugera notre politique. Seulement je me permettrai de dire qu'on porte ce jugement un peu vite, et, pour employer la langue dont on s'est servi à notre égard, un peu légèrement, quand on se prononce sur notre politique sans avoir même lu ces lois-là. Eh bien, quel est le fond de ces lois? On nous demande quelle est la politique conservatrice; je vais vous la montrer ici, et ce n'est pas sur de vagues appréciations que je m'appuierai, c'est sur des signes certains dont personne ne pourra contester la valeur. ‖ Je ne veux pas discuter ces lois, je veux en énoncer les points principaux; et, pour ceux qui ne les ont pas lues, je crois qu'ils connaîtront le fond des choses par le simple résumé que je vais faire. ‖ D'abord, avons-nous dit: Puisque c'est la souveraineté nationale qu'on doit organiser, il faut d'abord épurer les sources de la représentation nationale. Pour cela, il faut une loi électorale. Nous vous en apportons une. Dans notre opinion, il n'est pas possible aujourd'hui de porter atteinte au principe du suffrage universel. J'en connais les inconvénients; j'ai été un des auteurs de la loi du 31 mai; je ne l'ai jamais nié, je n'ai rien à nier devant personne; j'ai tout fait en con-

science. Et bien que, aujourd'hui, je croie impossible de renouveler cette tentative, je n'ai pas été l'auteur ni le complaisant du suffrage universel. C'est un écrivain légitimiste qui en a donné l'idée au pays. (On sourit.) C'est la famille Bonaparte qui l'a appliqué au pays et qui l'a appliqué, vous le savez bien, après qu'elle avait voulu la loi du 31 mai. Elle a brisé cette loi et s'en est fait ainsi un échelon au trône. || Je suis donc parfaitement innocent de l'établissement de ce principe en France. Cependant aujourd'hui, — quant à moi, j'en parle ici pratiquement, comme tout à l'heure je parlais de la république et de la monarchie, — je crois souverainement imprudent de songer seulement à y toucher. Mais autre chose est de le réglementer, de le moraliser, de l'épurer. Dans l'état actuel, faute de certaines constatations, on ne sait pas qui vote; on ne sait pas si c'est un malfaiteur ou un citoyen qui a le droit et l'honneur d'user de ses droits. (Mouvements divers.) || Il y a donc des précautions à prendre; elles sont dans ces lois; vous les jugerez; vous êtes en mesure de les amender, car vous êtes les souverains législateurs. || La représentation nationale établie sur cette base, ou plutôt la source de la représentation nationale étant, suivant l'expression que je crois la vraie, épurée, comment faut-il constituer cette représentation nationale? Je n'hésite pas à le dire, il faut la diviser en deux assemblées. || Je ne veux pas discuter cette question; mais je dirai qu'il n'y a pas dans les républiques anciennes, ni dans les républiques du moyen-âge, un seul exemple d'un pays qui ait voulu confier son sort à une seule assemblée. Et si j'avais le temps de m'étendre sur ce sujet, je dirais ce que j'ai dit devant le Corps législatif de l'Empire: "Il faut organiser un gouvernement comme Dieu a fait l'âme humaine. Dieu lui a donné des instincts vifs qui l'emportent, et il lui a donné la raison pour y résister." || Il faut dans un gouvernement, en livrant le pays à ses entraînements, il faut constituer quelque part la raison qui arrête les instincts, qui arrête les emportements. Quand les peuples, après des expériences de plusieurs siècles, ont eu tous reconnu la nécessité de deux assemblées, ils ont voulu faire le gouvernement des Etats comme Dieu a fait l'âme humaine, entraînable mais retenue par le frein de la raison. || Eh bien, voilà un principe: il n'y en a pas de plus conservateur que celui-là. Nous allons voir tout à l'heure qui veut, qui ne veut pas de ce principe, et nous reconnaîtrons, comme je vous l'annonçais, qui est-ce qui n'est pas conservateur. || Ce n'est pas tout: il faut un pouvoir exécutif. Eh bien, nous avons cru que, après les exemples de notre histoire, après les leçons que nous a données l'Amérique, il ne fallait pas, avec deux Assemblées qui discutent, un pouvoir exécutif qui discute en étant divisé; qu'il ne fallait pas un Directoire, qu'il fallait un Président. || Quant à la forme de la nomination du Président, si j'étais en position de me prononcer sur la questio pour moi-même, — mais non, il n'est pas question de moi, il n'en sera pas question, — c'est le mode américain que je préférerais. Dans l'état des esprits, l'opinion du cabinet, à laquelle j'ai accédé, c'est qu'il fallait confier l'élection du Président à l'As-

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semblée nationale et à une adjonction des conseils généraux. Vous jugerez tout cela. Le cabinet vous apporte ces lois, vous les discuterez. || Mais il y a une question souveraine à la solution de laquelle, à mon avis, est attaché le salut du pays: les pouvoirs peuvent entrer en conflits, quel doit être le juge de ces conflits? qu'est-ce qui les fera cesser? Aujourd'hui, vous voyez l'inconvénient de l'état actuel: je suis devant une Assemblée unique, que je respecte profondément, mais enfin, plus d'une fois déjà il a failli s'élever des conflits entre elle et moi. Je pourrais citer toutes les occasions où j'ai humilié ma propre pensée et où j'ai cédé. Non pas qu'il soit dans ma nature de vaciller, de tergiverser; mais j'ai voulu faire cesser le conflit en m'immolant moi-même. (Mouvements divers.) || Ainsi, la loi des Trente, j'ose à peine le dire, elle a révolté tous mes instincts de bon sens, et cependant je l'ai acceptée. (Rires à gauche. — Mouvement prolongé.) Je l'ai acceptée, parce que, nous disait-on, elle ferait naître l'accord entre nous. Je l'ai espéré; j'ai soumis, je ne dirai pas mon intérêt, — et cependant je pourrais le dire, car c'est mon intérêt, c'est le vôtre que j'aie la faculté de venir apporter à cette tribune ce que je crois être la vérité, alors surtout qu'il n'y a qu'une seule Assemblée, — j'ai soumis, sinon mon intérêt, au moins mon sentiment personnel, à cette considération que si je sacrifiais une partie notable de mes moyens de faire le bien et d'empêcher le mal, je pourrais peut-être arriver à un accord plus parfait dans mes relations avec l'Assemblée. Vous pouvez voir que je me suis trompé, — cela m'est arrivé, cela m'arrivera encore peut-être: — l'accord, je ne l'ai pas obtenu. || Il faut donc qu'il y ait quelqu'un qui fasse cesser les conflits. Eh bien, le point principal des institutions que nous vous apportons, c'est d'avoir placé quelque part le pouvoir de dissolution. || Cela est difficile à obtenir, je le reconnais. Il est bien possible que nous ne trouvions pas l'appui nécessaire; je dis nous, le propos est très-aventuré, mais enfin, nous ou d'autres, ne trouveront peut-être pas l'appui nécessaire pour faire prévaloir ce grand principe. || Quoi qu'il en soit, je n'hésite pas à le dire, là est la véritable politique conservatrice, la politique prévoyante. (Mouvements divers.) || Oh! vous allez juger, avec quelques mots que j'ai encore à vous dire, si c'est la vraie politique conservatrice comme je l'entends, et aussi, je crois, comme vous l'entendez vous-mêmes. || Ces lois ont deux sortes d'adversaires. Les uns disent. "Vous constituez la République; nous ne voulons pas la constituer; laissez-nous en paix avec vos lois; nous voulons, que l'Assemblée conserve son pouvoir constituant, et puis, la Providence aidant, peut-être pourrons-nous satisfaire nos convictions." Et ils ne veulent pas de ces lois, parce qu'elles constituent autre chose que la monarchie. Je ne les en blâme pas, je respecte toutes les opinions. || Les autres disent: "Vos lois, non! non! nous n'en voulons pas; nous voulons une Constituante!" Ils espèrent que cette Constituante sera de leur avis et pas du nôtre, et ils ne veulent pas constituer, parce qu'ils espèrent faire la République qu'ils préfèrent. || Eh bien, c'est entre ces extrêmes que nous nous plaçons. Nous disons aux uns: Oui, il faut constituer

la République vous-mêmes! Nous disons aux autres: Nous ne nous fions pas à l'avenir d'intérêts si chers. Non! non! Nous qui admettons la souveraineté de cette Assemblée, qui ne contestons ni la durée, ni l'étendue de ses pouvoirs, nous désirons que ce soit elle qui fasse la République. Mais nous trouvons, c'est vrai, des oppositions à droite et à gauche. || Messieurs, voilà, selon moi, la vraie politique conservatrice, c'est celle qui, passant entre tous les extrêmes, se fixe là où est l'intérêt évident du pays. Nous faisons l'acte le plus conservateur du monde, quand nous vous apportons les lois de cette République conservatrice, disant aux uns: "Faites le sacrifice de voter une forme qui, pratiquement, est la seule possible, donnez-lui le caractère légal;" et quand nous disons aux autres: "Quoique, — pardonnez-moi les termes, — vous puissiez penser de cette Assemblée envers laquelle vous êtes sévères, comme on l'est envers nous, pour laquelle vous n'avez pas de confiance, nous, au lieu de vouloir la dissoudre, nous voulons, pour ce qui nous regarde, qu'elle dure assez longtemps pour faire les lois de la République conservatrice. "(Sourires sur quelques bancs à gauche.) A mon avis, voilà la véritable opinion, l'opinion sage, celle qui peut rassurer le pays. (Mouvements divers). On nous dit: Mais, les élections! || Eh bien, j'en conviens, ces élections qui, permettez-moi de le dire, — ne vous irritez pas de ces quelques paroles par lesquelles je vais terminer ce trop long discours, — ces élections n'ont pas toujours été toutes de la nature qui me rassurerait le plus (Sourires). Il serait inconvenant de discuter ici, devant nos collègues nouvellement arrivés, le mérite ou la qualité de leurs candidatures, le mérite ou le démérite de leurs électeurs et de leur élection; mais je suis loin de trouver les derniers résultats électoraux aussi alarmants qu'on affecte de le dire, ou qu'on le dit très-sincèrement. Pour moi, je ne m'aveugle pas sur les dangers de l'avenir; ce que je crois, c'est que, en général, les élections partielles sont presque toujours ce qu'on appelle mauvaises. On appelle mauvaises les élections qui froissent vos convictions; c'est le droit de tout le monde. (On rit.) || Pourquoi en est-il ainsi? C'est que le pays conservateur a le tort d'être porté à l'abstention, et il est d'autant plus porté à l'abstention que les élections dont il s'agit ont moins d'importance. || Je suis persuadé, quant à moi, que, moyennant les lois électorales que nous vous présentons, quand il y aura des élections générales, — je crois connaître le pays, je puis me tromper cependant, — mais je suis persuadé que vous aurez des élections qui n'auront rien d'alarmant. Que vous ayez des difficultés, assurément, vous en aurez toujours. Vous êtes une Assemblée conservatrice. Est-ce que je n'ai pas eu ici, dans vos rangs, à résister à l'impôt sur le revenu? Ce sont là des questions conservatrices. || Est-ce que je n'ai pas eu aussi à faire des efforts inouïs pour empêcher des impôts fâcheux et empreints d'un caractère de socialisme? Est-ce que je n'ai pas eu à plaider ici pour la plus conservatrice de toutes les solutions, celle qui donnait à l'armée cinq ans de service et non pas deux ou trois ans? N'ai-je pas eu aussi, un jour, à vous

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demander une résolution qui vous coûtait, qu'on m'a reprochée, celle de revenir, séance tenante, sur un vote qui donnait l'élection des maires des grandes villes au suffrage universel? (Mouvements divers.) || Je pourrais indiquer une quantité de questions sur lesquelles j'ai été obligé d'épuiser tout mes efforts pour vous ramener à ce que vous appelez la solution conservatrice. || Que vous ayez dans l'avenir des Assemblées qui pourront présenter, sur beaucoup de points, des divergences fâcheuses et regrettables, c'est possible. Dans ce siècle-ci, le repos, ce repos des pays qui ne sont pas libres, il ne nous est pas destiné. J'ai traversé la Constituante. Ceux qui m'accusent n'y étaient pas, comme moi; quand on a vu ces neuf cents députés — socialistes, il faut le dire, de bonne foi, par ignorance, — quand on les a vus céder à la raison, et, sur les questions les plus importantes, finir par les solutions les plus raisonnables, on ne s'effraye pas autant de l'avenir. (Mouvement.) || J'ai pour maxime qu'il faut tout prendre au sérieux, mais rien au tragique. Quant à moi, je ne désespère pas de l'avenir de mon pays, et surtout quand je vois ce qui égare le corps électoral; quand je vois ces preuves de défiance qui nous divisent; quand je vois certains candidats repoussés, non pas avec une intention socialiste dont on parle, mais parce qu'on les suspecte de vouloir la monarchie; quand je vois les électeurs... (Bruit à droite) — je prévois l'objection, je n'en laisserai aucune sans réponse, — quand je vois des candidats qui, en toute autre circonstance, seraient repoussés, mais qu'on préfère parce qu'on les croit décidés sur la question de la République, je dis, quant à moi, que je suis persuadé que lorsque vous aurez dégagé la grande question du jour, lorsque vous l'aurez résolue, lorsque la question ne sera plus posée qu'entre ceux qui veulent l'ordre et ceux qui veulent le désordre, entre ceux qui veulent le bien et ceux qu'on pourrait accuser de vouloir le mal, je suis convaincu qu'une majorité se déclarera. || Puis je reconnais qu'il peut arriver telle Assemblée qui ne pense pas comme il faudrait, à mon avis, qu'une Assemblée française pensât; mais alors nous apportons, à mon sens, la seule garantie: cette garantie, c'est la discussion, c'est une seconde Chambre, c'est le pouvoir de dissolution placé quelque part. || Si on ne trouve pas cette garantie suffisante, je demanderai qu'on m'en présente une autre. Dans l'état de nos lois, quand vous aurez fait ce que vous pourrez pour épurer les sources de la représentation nationale; quand vous aurez pris toutes les précautions que la situation actuelle vous permet de prendre; quand vous aurez organisé deux Chambres le mieux que vous pourrez, — la question est posée et c'est à vous de la résoudre; — quand vous aurez placé le pouvoir de resistance dans une de ces deux Chambres; quand vous aurez créé la faculté de dissolution de l'une des deux Chambres, alors les difficultés s'évanouiront. || On peut me dire, il est vrai: Mais si, après avoir prononcé la dissolution, le pays vous renvoyait la même chambre, que feriez vous? || Je crois, messieurs, qu'avec un gouvernement prudent et vigoureux, avec un gouvernement conservateur et ferme, en ne prenant pas

l'épouvante trop facilement, je crois qu'avec un gouvernement ferme, et aussi avec le temps, on pourra triompher de toutes les difficultés qui se présenteront. || En tous cas je dirai: apportez-moi un autre remède! Si deux Chambres, le pouvoir de dissolution, et un pouvoir exécutif bien vigoureux étant constitués ne suffisent pas, indiquez-moi le remède, donnez-m'en un qui me rassure. Dans ma bonne foi, je ne dis pas que je l'accueillerai, — je n'en ai pas le pouvoir, — mais je le discuterai avec vous. || Au delà des moyens légaux, je ne sais qu'un remède, je n'en aperçois qu'un seul, c'est la dictature. Or, qu'est-ce qui la veut? Oh! ceux à qui on la donnerait, je le sais bien, l'accepteraient. (Hilarité prolongée.) Mais, je le demande, où est la dictature? || Oh! la dictature, elle s'est levée sur notre pays. Oui, et je n'ai pas assez peu de mémoire pour l'avoir oublié. Vous a-t-elle sauvés? || Vous lui avez, avec une confiance bien grande; abandonné la solution de toutes les questions qui intéressaient le pays; qu'en a-t-elle fait? (Mouvement.) Le pays est tombé en 1815 avec gloire. Comment est-il tombé en 1870? .... (Mouvement.) || Je ne veux pas ajouter aux amertumes qui remplissent vos coeurs en face des divisions qui existent parmi nous; mais, laissez-moi vous le dire, ayons recours aux moyens légaux. Il n'y en a pas d'autres, sauf les modifications de ceux que nous vous apportons, il n'y en a pas d'autres, excepté la dictature. La dictature des grands hommes vous a perdus; celle des petits ne vous perd pas moins, et avec eux il y a de moins la gloire. (Applaudissements au centre gauche. — Mouvement prolongé.)

Maintenant, j'arrive au terme de ce discours. La politique conservatrice est celle que je viens de décrire: c'est celle qui se place entre les extrêmes qui ne veulent pas constituer, les uns parce qu'en constituant on ne constituerait pas la monarchie; les autres qui veulent une autre Assemblée que vous, qui ne veulent pas vous laisser le temps de faire ces lois, parce qu'ils espèrent d'une Constituante la satisfaction de ce qu'ils appellent leurs convictions et de ce qu'ils ont le droit d'appeler ainsi. || C'est entre ces deux extrêmes que chemine notre politique, inexorable pour le désordre, l'ayant comprimé à ce point qu'on en a fait un argument. Et que dirait-on, si chez nous, comme dans plusieurs villes d'Allemagne, l'émeute, si elle avait le temps de détruire, détruisait les boutiques, que diriez-vous? — Chez la nation victorieuse, ce spectacle a été donné. Chez nous, si un audacieux voulait toucher à la porte d'une boutique, il expirerait avant d'avoir enfoncé la porte. L'ordre est donc établi, oui, l'ordre est établi. || Oh, je le sais, on dit: C'est l'ordre matériel! Permettez-moi de le dire, c'est déjà quelque chose que d'en jouir. Cette politique, je le répète, est celle qui est placée entre tous les extrêmes, garantissant l'ordre matériel d'une manière infaillible, et tâchant de rétablir l'ordre moral par la solution des questions difficiles, solution à vous abandonnée; car c'est à vous d'examiner ces lois, de les discuter, d'y consacrer le temps nécessaire. || Je sais bien qu'on nous a dit hier que tous ces moyens ne suffisaient pas; je n'en sais pas d'autres. || On nous a dit,

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avec une pitié dont j'ai été très-touché. . . (On sourit.) qu'on plaignait notre sort, que nous allions être des protégés, des protégés de qui? Du radicalisme. On m'a prédit à moi une triste fin. Je l'ai bravée plus d'une fois pour faire mon devoir, je ne suis pas sûr que je l'aie bravée pour la dernière fois. || Et puis on nous a dit qu'il y avait une chose fâcheuse outre une fin malheureuse, c'était d'y ajouter le ridicule. || On me permettra de trouver cela bien sévère. Un homme qui aurait servi son pays toute sa vie, qui aurait, dans les temps les plus difficiles, sacrifié sa popularité pour la vérité, qui aurait rendu des services que je ne prétends pas avoir rendus, peut-être pourrait traiter avec cette pitié des hommes comme ceux qui sont sur ces bancs. (L'orateur désigne le banc des ministres.) || Je remercie l'orateur de ses sentiments compatissants. (Rires à gauche). Qu'il me permette de lui rendre la pareille et de lui dire aussi que moi je le plains. De majorité, il n'en aura pas plus que nous; mais il sera un protégé aussi, je vais lui dire de qui, d'un protecteur que l'ancien duc de Broglie aurait repoussé avec horreur, il sera le protégé de l'Empire. (Triple salve d'applaudissements à gauche et au centre gauche.)

(Une longue agitation succède au discours de M. le Président de la République. — Presque tous les députés sont debout à leurs places. — Un certain temps s'écoule avant que M. le président parvienne à obtenir le rétablissement du silence.)

M. le président. Je vais consulter l'Assemblée.

. . . .

(L'Assemblée, consultée, décide qu'elle se réunira à deux heures.)

M. le président. Voici l'ordre du jour de la prochaine séance, qui aura lieu en dehors de la présence de M. le Président de la République:

Suite de la discussion de l'interpellation.

(La séance est levée à onze heures quarante minutes.)

Deuxième séance du samedi 24 *mai* 1873.

Présidence de M. Buffet.

M. le président. La parole est à M. le ministre de l'intérieur.

M. Casimir Perier, *ministre de l'intérieur.* Messieurs, si la clôture... (Non! non! — Parlez! à gauche.) si la clôture n'avait pas été réclamée, j'aurais laissé la parole à l'un des orateurs qui l'ont demandée; mais je suis convaincu, messieurs, que vous ne refuserez pas aux membres nouveaux du cabinet, contre lesquels ont été dirigées des attaques toutes particulières, de venir ici vous dire quels sont les motifs qui les ont déterminés à accepter la part de fardeau dont ils se sont chargés. (Très-bien! Parlez! parlez!)

M. le vice-président du conseil, et M. le Président de la République. . .

A droite. Oh! oh!

A gauche. A l'ordre! à l'ordre! les interrupteurs.

Un membre à gauche. Ce sont des factieux qui murmurent!

M. le président. J'invite les interrupteurs à faire silence.

M. le ministre de l'intérieur. M. le vice-président du conseil, et M. le Président de la République ont répondu tour à tour aux accusations dirigées contre la politique générale du Gouvernement. ‖ Ils vous ont montré qu'ils trouvaient la principale cause de la faiblesse du pouvoir dans un régime provisoire, légal, puisque c'est vous qui l'avez établi, messieurs, mais auquel manque la consécration d'un droit placé hors d'une contestation de tous les jours. Je ne répéterai pas ce qu'ils vous ont dit, et ce qu'ils vous ont dit mieux que je ne le dirais moi-même, je viens ici, non point engager une longue discussion, ni faire un discours: je viens faire une déclaration. ‖ Mais auparavant il est nécessaire que je réponde quelques mots aux reproches très-immérités que M. le duc de Broglie a adressés hier aux trois membres nouveaux du cabinet. Je ne puis reconnaître à M. le duc de Broglie le droit de dire que, lorsque l'honorable M. Bérenger, l'honorable M. Waddington et moi nous sommes entrés dans le cabinet "nous avons fait faire un pas vers les concessions, vers les ménagements et les compromis avec le parti radical." ‖ M. le duc de Broglie chercherait vainement dans nos votes passés, dans notre langage un mot prononcé, une ligne écrite qui pût justifier de pareilles paroles. M. le duc de Broglie ne s'est souvenu d'un acte de l'honorable M. Bérenger que pour le placer en contradiction hypothétique et bien gratuite avec lui-même. (Très-bien! au centre gauche.) M. le duc de Broglie ne s'est pas souvenu que l'honorable M. Waddington et moi nous avons longtemps appartenu au centre droit . . . (Rumeurs à droite), et que nous ne l'avons quitté que lorsque nous avons vu qu'une partie au moins du centre droit allait se confondre avec l'extrême droite.

A gauche et au centre gauche. Très-bien! très-bien!

M. le ministre. M. le duc de Broglie n'aurait point dû oublier non plus que dans une occasion récente, nous avons tous les trois manifesté d'une façon non douteuse notre ferme résolution de ne point entrer, même en apparence, en concert avec le parti radical. M. le duc de Broglie nous a déclarés suspects, puisqu'il a dit qu'il ne s'en tenait pas à nos paroles, qu'il fallait des actes et que ce langage est adressé aux membres d'un cabinet qui, comme ministres, n'ont pas encore pu faire un acte, ni prononcer une parole. (Très-bien! très-bien! à gauche et au centre gauche.) ‖ "Dupes ou complices du radicalisme", a-t-il dit, et telle est la seule alternative qu'il nous laisse. Eh bien, il nous donne le droit, je dirai plus, il nous impose l'obligation de lui demander à notre tour quelles seront les dupes dans cette coalition dont il s'est fait l'organe. (Très-bien! très-bien! et applaudissements à gauche.) Nous sommes obligés de lui demander non pas dans l'intérêt misérable de la conservation d'un pouvoir que nous n'avons pas désiré, que j'ai le droit de dire que je n'ai pas désiré . . . (Nouveaux applaudissements à gauche. Ru-

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meurs à droite.) — nous lui demandons de faire savoir au pays quel sera le lendemain de la victoire. (Bravos répétés à gauche et au centre gauche.)

Voix divers. Voilà la question! — Qu'est-ce qu'ils feront du pays?

M. le ministre. Nous lui demandons de nous dire à qui appartiendra le pouvoir dans une coalition victorieuse entre les plébiscitaires, les partisans de la monarchie constitutionnelle et les partisans de la monarchie de droit absolu. (Applaudissements à gauche et au centre gauche. — Rumeurs à droite. — Agitation prolongée.)

M. le vicomte d'Aboville. Est-ce à Frohsdorf que vous avez appris cela?

M. de Belcastel. Il n'y a pas parmis nous de monarchistes de droit absolu. C'est une calomnie!

Plusieurs membres du centre droit, désignant la gauche et s'adressant à l'orateur. Voilà quels seront vos amis!

M. le ministre. Vous le savez bien . . . (Nouvelles interruptions à droite. — Attendez le silence!) Vous savez bien, dis-je, que je n'irai jamais m'asseoir sur ces bancs. (L'orateur désigne les bancs de la gauche.)

Un membre à droite. Mais vous marchez avec eux!

M. le ministre. Et si quelques personnes de ce côté m'acceptent avec une très-grande réserve, c'est qu'elles savent que mes amis et moi nous sommes les otages qui rassurent le pays sur la République conservatrice. (Vive approbation à gauche.) ‖ Eh bien, messieurs, c'est cette situation étrange que je vous signale avec regret, et dont, vous le voyez, si je parle avec fermeté, je parle aussi avec modération . . . (Exclamations et rires à droite. — Très-bien! à gauche.) ‖ Si j'ai dit un mot qui blesse aucune opinion, une personnalité quelconque, qu'on me le dise. J'affirme mes opinions, je respecte les vôtres; respectez aussi les miennes! (Très-bien! très-bien! à gauche.) ‖ On nous accuse d'équivoques et de compromis, et vous ne voulez pas que je vous signale les équivoques et les compromis là où je les rencontre! ‖ C'est le premier de nos devoirs, et vous l'avez imposé à notre honneur. (Nouvelles marques d'approbation à gauche.) ‖ Je sais bien que l'on se retranche derrière le nom de conservateurs. C'est un beau nom, messieurs, et je me l'attribue; je m'honore de l'avoir toujours porté, je m'honore de n'en avoir jamais démérité. (Très-bien! très-bien!) M. le duc de Broglie, à qui j'ai tout à l'heure reproché quelques oublis, aurait pu aussi se souvenir de quelques actes significatifs de ma courte administration, dont j'espère que tous mes collègues, sur ces bancs, n'ont pas perdu le souvenir. (Approbation sur plusieurs bancs.)

Un membre au centre droit. Et entre autres la demande du retour à Paris!

M. le ministre. Et quant à la fermeté dont on nous reproche de manquer, ne serait-ce pas plutôt que l'on nous en trouve trop sur le terrain où nous nous sommes placés? Ne serait-ce pas ce que l'on regrette? On aurait le droit, non pas de nous dire que nous manquons de fermeté, mais de

prétendre prouver que nous employons mal celle que nous déployons pour établir la seule forme de gouvernement que nous croyons aujourd'hui possible, de laquelle nous croyons pouvoir attendre le salut de notre pays. (Très-bien! très-bien! à gauche.) || Messieurs, la fermeté et le courage ne sont pas la même chose. Le courage est l'action d'un moment; la fermeté est une action durable. Le courage, vous n'en pouvez pas douter; nous en faisons preuve en ce moment, et je ne connais pas de courage plus difficile et plus douloureux que celui de se séparer sur une question donnée d'amis de toute sa vie auxquels on reste attaché par bien des liens, par bien des sentiments communs, quand on a le malheur de les trouver unis à des adversaires de la veille. (Très bien! très bien! à gauche.) || J'entends dire ici: Et vos alliés! || Non, je n'ai point d'alliés, si ce n'est pour sauver le pays. Il peut y avoir des rencontres — je ne veux point blesser mes collègues, — mais si ce sont des alliés, il faut qu'ils m'acceptent tel que je suis. (Très-bien! et applaudissements à gauche. — Rumeurs à droite.) || Vous pourrez me faire bien des reproches, je puis commettre bien des fautes, mais je n'ai jamais trompé, je ne tromperai jamais personne. || J'arrive aux motifs de notre entrée dans le cabinet, aux motifs qui m'ont déterminé ainsi que l'honorable M. Bérenger et l'honorable M. Waddington, tous deux mes amis personnels et politiques, ayant siégé avec moi dans un groupe auquel vous ne pouvez refuser le nom de conservateurs, dans un groupe qui m'a fait l'honneur de me mettre à sa tête et dont je soutiendrai les idées avec la dernière énergie. (Très-bien! très-bien! à gauche.) || Le programme m'appartient et n'a pas été délibéré entre moi et mes collègues. J'ai voulu en prendre sur moi toute la responsabilité et j'ai pris soin de l'écrire pour être certain que dans une matière aussi grave, il n'échapperait pas à l'improvisation de ces mots qui peuvent être regrettables dans des circonstances aussi solennelles. Permettez-moi de vous en donner lecture. (Lisez! lisez!)

"Une profonde conviction domine et explique notre conduite. Il faudrait, pour prolonger le provisoire, une sagesse que n'ont eue d'aucun côté les partis, une patience difficile à attendre d'une nation comme la nôtre. || Le provisoire est à nos yeux non pas l'unique, mais la principale cause du trouble des esprits, de manifestations qui traduisent une situation, très-grave sans doute, mais n'expriment pas le vrai des sentiments du pays et le fond de ses tendances. L'inquiétude, inséparable de l'incertitude, s'est emparée des esprits. Le pays, dans son immense majorité, veut la paix, le respect des lois, l'ordre, la protection des intérêts; il déteste les agitations stériles et les excitations violentes. || La France veut être gouvernée; elle comprend qu'elle ne peut l'être fermement par un Gouvernement précaire et contesté, dont l'existence même est mise chaque jour en question. || La France comprend que ce Gouvernement, ferme parce qu'il sera respecté et obéi, elle ne peut le devoir aujourd'hui qu'à la République. || Ce besoin d'un Gouvernement est passé de l'inquiétude à l'impatience, de l'impatience au mécontente-

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ment. Jusque dans nos plus paisibles populations rurales bien des braves gens assez indifférents à la forme du gouvernement, sont irrités et poussés presqu'au désespoir par nos divisions et nos irrésolutions." (Très-bien! très-bien! au centre gauche. — Murmures et réclamations du côté droit.)

Vous pourriez, messieurs, réclamer si je vous disais que cette dernière pensée s'attache exclusivement à la République; je dis que nous avons besoin d'un gouvernement et si vous ne voulez pas laisser établir celui-là, faites-en un autre! (Vive approbation du côté gauche.) || Je reprends ma lecture:

"Sans doute il y a quelque chose de trop absolu dans la logique qui ferait chercher le remède à tous maux, le terme de tous périls dans le fait seul de la reconnaissance formelle d'un gouvernement quelconque. Mais dans l'état actuel des esprits, c'est là le point de départ inévitable. Hors de là, la marche vers la désorganisation politique et sociale est certaine par les progrès du radicalisme que vous ne sauriez réprouver plus que nous. || Aussi, malgré tout ce qui pouvait personnellement m'arrêter, malgré des sacrifices dont nul autre que moi ne peut mesurer l'étendue, lorsque j'ai été appelé à faire partie d'un cabinet, reconstitué dans des conditions particulières d'homogénéité et d'entente sur ce qui allait être, à mes yeux, comme à ceux de tous mes collègues, la plus importante partie de notre mission, je n'ai pas hésité. || J'ajoute que l'accord sur la nécessité d'une politique de préservation et de défense a été cimenté entre le président de la République et son cabinet par les plus complètes explications. Il est plus que jamais nécessaire qu'en partageant le fardeau du pouvoir, chacun en partage efficacement la responsabilité collective et que chacun revendique, envers tous, celle de ses actes personnels. || Il faut le plein accord, l'accord concerté dans toutes les questions générales, mais il faut l'unité de direction dans tous les départements ministériels. Il n'y a pas sans cela de bon gouvernement, de bonne administration possibles. L'indécision et la contradiction sont partout funestes; elles le seraient plus que partout ailleurs au ministère de l'intérieur, dont j'ai accepté la lourde charge. || Et si après avoir lu notre programme, si après nous avoir entendus on persiste à nous accuser d'équivoque, à nous reprocher de quêter l'appui du radicalisme et de compter sur son alliance pour gouverner, ce ne serait plus seulement notre raison, c'est notre honneur qu'on mettrait en doute. (Approbation à gauche.) || C'est pour combattre le radicalisme que nous voulons la République et que nous faisons appel à tous ceux pour lesquels, sans distinction de partis, l'apaisement des passions et la prospérité publique sont le premier des voeux, le premier des besoins. || Nous leur demandons, au milieu de tant de compétitions diverses, de nous donner, contre les ennemis de tout ordre paisible et régulier, la force dont nous avons besoin pour les contenir. || Nous demandons un Gouvernement qui ait le droit de s'appeler par son nom, afin qu'il puisse dire où il va et qu'on puisse le suivre. (Nouvelle approbation à gauche.) || Si les conditions que nous jugeons indispensables à l'exercice du pouvoir viennent à nous

être refusées, nous ferons ce que nous commandera notre devoir, comme vous croirez avoir fait le vôtre | Le pays nous jugera, et l'avenir fera la part des responsabilités." (Applaudissements à gauche et au centre gauche.)

A droite. La clôture! la clôture!

M. le président. On demande la clôture de la discussion. (Oui! oui!)

. . . .

(La clôture de la discussion est mise aux voix et prononcée.)

M. Ernoul. Je demande la parole pour présenter un ordre du jour motivé.

M. le président. Vous avez la parole.

M. Ernoul. Messieurs, au nom d'un assez grand nombre de signataires, j'ai l'honneur de proposer à l'Assemblée l'ordre du jour motivé suivant:

"L'Assemblée nationale,

"Considérant que la forme du gouvernement n'est pas en discussion . . . (Explosion de rires et applaudissements ironiques au centre gauche, auxquels répondent des applaudissements d'assentiment partant du centre droit.)

M. Cézanne. Dites que la République est hors de discussion et nous sommes d'accord! (Bruit.)

M. le président. Messieurs, veuillez écouter en silence la lecture de l'ordre du jour.

M. Ernoul. Je reprends:

"L'Assemblée nationale,

"Considérant que la forme du gouvernement n'est pas en discussion;

"Que l'Assemblée est saisie de lois constitutionnelles présentées en vertu d'une de ses décisions et qu'elle doit examiner;

"Mais que, dès aujourd'hui, il importe de rassurer le pays . . ." (Exclamations ironiques à gauche.) "Mais que dès aujourd'hui, il importe de rassurer le pays en faisant prévaloir dans le Gouvernement . . ." (Interruptions à gauche.)

M. le président. Messieurs, vous pourrez discuter l'ordre du jour, mais, je vous en prie de nouveau, veuillez en écouter la lecture en silence.

M. Ernoul. "Mais que, dès aujourd'hui, il importe de rassurer le pays en faisant prévaloir dans le Gouvernement une politique résolûment conservatrice....

Un membre à gauche. Qu'est-ce que c'est que cela?

M. Ernoul. "Regrette que les récentes modifications ministérielles n'aient pas donné aux intérêts conservateurs la satisfaction qu'ils avaient le droit d'attendre ..." (Bruyantes exclamations à gauche. — Applaudissements à droite, auxquels répondent des applaudissements ironiques à gauche.) "Regrette que les récentes modifications ministérielles n'aient pas donné aux intérêts conservateurs la satisfaction qu'ils avaient le droit d'attendre.

"Et passe à l'ordre du jour."

Je demande la priorité pour cet ordre du jour. (Approbation à droite. — Exclamations diverses et rires à gauche.)

M. Target. Je demande la parole.

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M. le président. M. Target a la parole.

M. Target. Ce n'est pas un discours que je viens prononcer à cette tribune . . . (Interruptions sur divers bancs à gauche.) || Je répondrai à toutes les interruptions d'où qu'elles viennent. (Oh! oh!) || Je viens faire, au nom d'un certain nombre de mes collègues, une déclaration, car il ne faut pas d'ambiguité dans le vote. || Au nom de mes collègues dont les noms suivent, j'ai l'honneur de déclarer . . .

Quelques membres à gauche. Lisez les noms! lisez les noms!

M. Target. . . . afin de bien préciser la pensée et la portée de notre vote, que, tout en nous associant à l'ordre du jour . . . (Très-bien! très-bien! à droite), nous nous déclarons résolus à accepter la solution républicaine telle qu'elle résulte de l'ensemble des lois constitutionnelles présentées par le Gouvernement . . . (Très-bien! très-bien! au centre gauche), et à mettre fin à un provisoire qui compromet les intérêts matériels du pays. Nous entendons, en adoptant cet ordre du jour . . .

Sur divers bancs à gauche. Quel ordre du jour?

M. Target. L'ordre du jour qui vient d'être présenté par l'honorable M. Ernoul. (Nouvelles interruptions.)

Nous entendous . . . . .

Un membre à gauche. Renverser le ministère!

M. Target. . . . manifester la pensée que le Gouvernement du Président de la République doit faire prévaloir désormais par ses actes une politique nette et énergiquement conservatrice. (Rires à gauche. — Applaudissements au centre droit.) . . . . .

M. le président. Un certain nombre de nos collègues, par une demande signée, proposent l'ordre du jour pur et simple.

M. Denormandie. Je demande la parole sur l'ordre du jour pur et simple.

M. le président. La parole est à M. Denormandie.

M. Denormandie. Messieurs, vous avez parfois autorisé quelques-uns de nous, dans des circonstances graves comme celle-ci, à porter à la tribune une sorte de commentaire de leur vote. Un certain nombre de nos collègues m'ont demandé d'être leur interprète: c'est ce que je vous demande la permission de faire en quelques mots seulement. || On a reproché au Gouvernement d'avoir des hésitations et des tâtonnements, et il s'est défendu de ce reproche en disant que dans l'état provisoire du pays, dans cet état difficile à définir, qui n'est ni la monarchie ni la République, il lui était extrêmement difficile d'éviter les grands embarras qui, nécessairement, résultent de cette situation.

Plusieurs membres à droite et au centre droit. C'est un discours! (Bruit. — Parlez! parlez!)

M. Denormandie. Cette défense du Gouvernement s'explique et doit être admise au point de vue politique proprement dit; mais ceux de nos col-

lègues, au nom desquels je parle, pensent qu'il doit être fait une distinction en ce qui touche les questions de personnel et d'administration. Peut-être le Gouvernement à cet égard n'a-t-il pas toujours eu l'unité suffisante dans les vues et la fermeté dans la direction; peut-être a-t-il eu des faiblesses regrettables, faiblesses dont nous avons souffert comme vous. (Très-bien! sur plusieurs bancs à droite. — Mouvements divers.) || Je n'hésite pas à vous dire, tant nous sommes conservateurs, que, si nous étions dans une situation politique différente de celle où nous nous trouvons, nous nous associerions peut-être à votre demande d'interpellation. (Très-bien! à droite.) || Je vais donc vous dire d'où vient notre anxiété et où naît notre dissentiment.

Nous vous demandons ce que vous ferez le lendemain de votre victoire ...

M. Boduin. Mais c'est un discours!

Plusieurs membres à droite. Vous rentrez dans la discussion!

M. Denormandie. Je vous affirme que je ne rentrerai pas dans la discussion.

Un membre. Vous y êtes complétement!

M. Denormandie. Nous croyons que le renversement du Gouvernement, à l'heure où nous sommes, peut avoir en France les plus grands dangers. (Dénégation à droite.)

M. Prax-Paris *et plusieurs voix à droite.* C'est de la discussion!

M. le président. J'entends assurer à tous nos collègues la plus complète liberté de discussion; mais je suis obligé de faire remarquer à M. Denormandie que les observations qu'il présente paraissent rentrer dans la discussion générale, qui a été close. (Réclamations à gauche. — Assentiment à droite.)

Plusieurs membres à gauche. Il parle sur l'ordre du jour pur et simple!

M. le président. Les différents ordres du jour peuvent être incontestablement discutés . . . et si c'est contre la rédaction de l'ordre du jour motivé que M. Denormandie veut discuter, je lui maintiens la parole.

M. Denormandie. Les observations que j'ai l'honneur de vous soumettre, messieurs, sont contre l'ordre du jour motivé et en faveur d'un ordre du jour pur et simple. Je n'ai plus que quelques mots à dire, et je vous supplie de les entendre. || Je dis que nous sommes inquiets de ce qui peut se produire dans le pays au moment même de votre victoire. (Nouvelle interruption à droite.) Savez-vous pourquoi? C'est parce-que nous n'avons aucune loi constitutionnelle comme base de notre organisation politique, et qu'il est certain que la chute du Gouvernement peut produire en France une grande émotion dont les conséquences sont incalculables. (Vive approbation à gauche. — Protestations à droite.)

M. Target. La victoire que nous recherchons, c'est l'affirmation de la République conservatrice avec M. Thiers. (Bruit confus.)

M. le comte de Rességuier. C'est dans l'Assemblée que le pays a confiance! (Dénégations à gauche.)

M. Denormandie. Je dis encore que nous redoutons beaucoup une division, même sur le choix et l'indication d'un nouveau gouvernement provi-

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soire succédant au provisoire actuel. (Rumeurs à droite.) Enfin; j'ajoute que nous craignons une division profonde lorsque le moment sera venu de donner à la France des institutions définitives; et vous savez ce que je veux dire à cet égard. (Bruit.) ‖ Il nous semble donc que, comme remède aux dangers qui ont été signalés, il y aurait sagesse à examiner et à discuter les lois qui vous ont été soumises. (Ah! ah! à droite.) ‖ En outre, nous vous demandons instamment, et c'est là la raison pour laquelle nous vous soumettons l'ordre du jour pur et simple, nous vous demandons d'attendre à l'épreuve le cabinet nouveau qui a pris la direction des affaires. (Très-bien! très-bien! à gauche. — Exclamations à droite. — La clôture! la clôture!) ‖ Nous attendons que ce cabinet nouveau . . . (Bruit général.)

M. de Carayon-Latour. Vous parlez pour le *Journal officiel!* Personne ne vous entend!

M. Denormandie. Messieurs, je descends de la tribune. ‖ Nous retenons comme sérieuses les promesses qui ont été faites au nom du Gouvernement; nous demandons à lui faire crédit . . . (Exclamations à droite.), un crédit extrêmement limité; nous en attendons les actes, les agissements, et nous vous supplions de faire au moins l'expérience de l'administration nouvelle. (Rumeurs à droite.) Vous ne contesterez pas le caractère essentiellement conservateur des membres du cabinet, et nous vous disons que si, dans un délai non éloigné, des satisfactions n'étaient pas données à l'esprit conservateur, vous nous trouveriez avec vous. (Très bien! sur quelques bancs. — Aux voix! aux voix!)

M. le président. L'ordre du jour pur et simple est demandé . . . (Interruptions diverses.)

. . . .

M. Dufaure, *garde des sceaux.* Messieurs, je monte à la tribune pour dire à l'Assemblée que le Gouvernement, en protestant contre les commentaires dont la proposition d'ordre du jour pur et simple a été accompagnée, adopte cet ordre du jour pur et simple. (Applaudissements à gauche. — Mouvement prolongé.)

De plusieurs côtés. Aux voix! aux voix!

M. le président. Je consulterai l'Assemblée dès qu'il me sera possible de me faire entendre. (Le silence se rétablit.) . . . . .

Il va être procédé au scrutin public sur l'ordre du jour pur et simple. (Le scrutin est ouvert et les votes sont recueillis.)

M. le président. Voici le résultat du dépouillement du scrutin:

Nombre des votants 710

Majorité absolue 356

Pour l'adoption 348

Contre 362

L'Assemblée nationale n'a pas adopté. (Mouvement général et prolongé.)

M. Broët a déposé entre mes mains un ordre du jour ainsi conçu, signé de lui et de M. Antonin Lefèvre-Pontalis:

"L'Assemblée nationale, confiante dans les déclarations du Gouvernement, et attendant de lui une politique résolûment conservatrice, passe à l'ordre du jour." (Exclamations à droite.)

Au centre gauche. Appuyé! appuyé!

Un membre à droite. Aux voix d'abord l'ordre du jour de M. Ernoul!

M. Cézanne. Nous demandons la priorité pour l'ordre du jour de M. Broët.

M. le président. Je vais consulter l'Assemblée sur la priorité; on la réclame d'un côté pour l'ordre du jour proposé par M. Broët, de l'autre pour celui de M. Ernoul.) . . . .

(L'Assemblée, consultée, décide que la priorité sera donnée à l'ordre du jour motivé proposé par M. Ernoul.

M. le président. Je mets aux voix l'ordre du jour motivé proposé par M. Ernoul.

Quelques membres. Veuillez le relire!

Autres membres. Expliquez le vote, monsieur le président!

M. le président. L'Assemblée veut-elle entendre une nouvelle lecture de l'ordre du jour de M. Ernoul? (Oui! oui!)

Il est ainsi conçu:

"L'Assemblée nationale,

"Considérant que la forme du gouvernement n'est pas en discussion; que l'Assemblée est saisie de lois constitutionnelles présentées en vertu d'une de ses décisions, et qu'elle doit examiner; mais que, dès aujourd'hui, il importe de rassurer le pays en faisant prévaloir dans le Gouvernement une politique résolûment conservatrice, regrette que les récentes modifications ministérielles n'aient pas donné aux intérêts conservateurs la satisfaction qu'elle avait le droit d'attendre et passe à l'ordre du jour."

— — — — — — — — — — —

(Le scrutin est ouvert et les votes sont recueillis.)

M. le président. Voici le résultat du dépouillement du scrutin:

Nombre des votants 704
Majorité absolue 353
Pour l'adoption 360
Contre 344

L'Assemblée nationale a adopté.

M. Baragnon. Je demande la parole.

M. le président. La parole est à M. Baragnon.

M. Baragnon. Messieurs, je viens d'avoir l'honneur de m'approcher du banc de MM. les ministres et de leur demander s'ils avaient une communication à faire à l'Assemblée. Le langage que le Gouvernement a fait

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MM. les ministres sont demeurés silencieux. || L'intérêt souverain du pays exige que le Gouvernement parle bientôt. (Réclamations à gauche. — Approbation à droite.) || Ce n'est pas moi, messieurs, qui l'ai mis dans la nécessité de parler; c'est lui-même, par le langage qu'il a tenu dans le courant de la discussion; et quelles que soient ici les opinions de chacun, à moins de vouloir le malheur irrémédiable du pays . . . (Vives exclamations et protestations du côté gauche.) personne ne peut vouloir un seul instant, dans cette enceinte, que la France demeure, fût-ce seulement une heure, sans gouvernement . . .

Plusieurs membres à gauche. Elle en a un!

M. Baragnon. Vous avez raison, elle en a un, et je le sais; mais elle a un Gouvernement qui s'est obligé, par son langage, à nous dire, — et à nous dire bientôt, — s'il reste ou s'il cesse d'être. (Mouvements divers.)

Quelques membres à gauche. Attendez!

M. Baragnon. C'est pourquoi je propose à l'Assemblée de décider qu'elle aura séance ce soir, à huit heures, et, après s'être consulté, le Gouvernement verra s'il a quelque communication à nous faire. (Applaudissements à droite. — Interruption prolongée.)

M. le président. M. Baragnon propose à l'Assemblée de tenir aujourd'hui même une nouvelle séance à huit heures.

A gauche. Pourquoi faire?

M. le président. Je vais consulter l'Assemblée.

M. Horace de Choiseul. Le Gouvernement demande-t-il cette séance, a-t-il des communications à faire?

M. le président. Aucun de MM. les ministres n'a demandé la parole; je ne puis faire qu'une chose: consulter l'Assemblée sur la proposition qui est faite; c'est à elle à l'apprécier.

Un membre. Il faut nous mettre en permanence!

Un autre membre. Quel est l'ordre du jour de cette séance du soir?

M. le comte de Rességuier. Le salut du pays!

M. le garde des sceaux. Je demande la parole.

M. le président. La parole est à M. le garde des sceaux.

M. le garde des sceaux, vice-président du conseil. Messieurs, je veux dire d'abord que l'honorable M. Baragnon a prononcé une parole contraire à toute constitution politique, à toute condition parlementaire.

Au centre gauche. Très-bien!

Un membre au centre droit. Laquelle?

M. le garde des sceaux. Laquelle! Je vais vous le dire.

Il ne s'écoulera pas un moment sans que la France ait un gouvernement (Très-bien! très-bien!) Le vote que vous venez d'émettre n'empêche pas qu'il y ait un Président de la République . . . (Vifs applaudissements à

gauche. — Très-bien! très-bien! sur divers bancs au centre droit et à droite.)

M. Baragnon. Très-bien! Nous sommes d'accord!

M. le garde des sceaux. . . . et des ministres qui, jusqu'au moment où ils auront été remplacés, gardent le pouvoir et répondent de l'ordre dans notre pays. (Applaudissements sur un grand nombre de bancs.) || Quant au parti qu'ils ont à prendre, ils se rendent chez M. le Président de la République, et ils ne font aucune opposition à ce que l'Assemblée, si elle le juge convenable, ait une séance de nuit. (Non! non! — Si! si!)

M. Baragnon monte à la tribune. Sur des exclamations parties des bancs de la gauche, il en redescend en disant: J'espère que vous m'avez compris!

M. le président. La proposition d'une séance pour ce soir est maintenue? (Oui!)

Je vais consulter l'Assemblée.

. . . .

(L'Assemblée, consultée, décide qu'elle tiendra une nouvelle séance à huit heures.

La séance est levée à six heures moins cinq minutes.)

Troisième séance du samedi 24 mai.

Présidence de M. Buffet.

— — — — — — — — — — —

M. le président. Je donne la parole à M. le vice-président du conseil qui vient de me la demander.

M. Dufaure, *garde des sceaux, vic-président du conseil.* Ainsi que j'ai eu l'honneur de vous l'annoncer à la fin de votre dernière séance, nous nous sommes retirés, mes collègues et moi, par devers M. le président de la République. Nous lui avons donné nos démissions. Il a bien voulu les accepter, et il m'a remis, en même temps, le message que je transmets à M. le président de l'Assemblée. (Mouvement.)

M. le président. Voici, messieurs, la teneur du message que vient de me remettre M. le garde des sceaux:

"Versailles, le 24.mai 1873.

"Monsieur le président,

"J'ai l'honneur de remettre à l'Assemblée nationale ma démission des onctions de Président de la République qu'elle m'avait conférées.

"Je n'ai pas besoin d'ajouter que le Gouvernement remplira tous ses devoirs jusqu'à ce qu'il ait été régulièrement remplacé.

"Recevez l'assurance de ma haute considé ration.

"*Signé*: A. Thiers,
Membre de l'Assemblée nationale."

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M. Changarnier. Je demande la parole. (Exclamations à gauche.)

M. le président. Avant de donner la parole au membre qui l'a demandée, je dois communiquer à l'Assemblée une proposition qui m'est remise à l'instant.

"Les soussignés, vu la démission de M. Thiers, Président de la République . . . (Exclamations à gauche.)

M. l'amiral Jaurès. C'était écrit d'avance!

Plusieurs membres à gauche. La démission est-elle acceptée?

M. Foubert. L'Assemblée n'a pas accepté la démission du Président de la République! . .

M. le président. Monsieur Foubert, vous n'avez pas la parole!

M. Foubert. Il faudrait, avant tout, consulter l'Assemblée sur la question de savoir si elle accepte ou n'accepte pas la démission du Président de la République.

M. le président. Monsieur Foubert, si vous persistez à parler sans avoir obtenu la parole, je serai obligé de vous rappeler à l'ordre.

M. Foubert. Je vous rappelle simplement à l'exécution du règlement. (Bruit.)

M. le président. L'Assemblée prendra une résolution lorsque je lui aurai communiqué la proposition qui m'a été remise et dont je ne puis me dispenser de lui donner lecture.

Plusieurs membres à gauche. Quels sont les signataires de cette proposition?

M. le président. Permettez-moi d'abord de la lire; je vous ferai connaître ensuite les noms des membres qui l'ont signée. (Oui! oui! — Lisez!)

"Les soussignés, vu la démission de M. Thiers, Président de la République française, proposent à l'Assemblée deprocéder immédiatement au scrutin sur la nomination de son successeur."

Ont signé: MM. le général Changarnier . . . (Rires à gauche), duc de Broglie . . . (Nouveaux rires du même côté.)

Voulez-vous, messieurs, me permettre de lire les signatures?

A droite. Lisez! lisez!

A gauche. On n'entend pas!

M. le président. Si vous voulez bien faire silence, vous entendrez. Il n'est pas possible que ma voix domine le bruit des conversations.

Je reprends.

Ont signé la proposition: MM. le général Changarnier, duc de Broglie, Delille, Beulé, Ernoul, Baragnon, Audren de Kerdrel . . ."

Quelques membres à gauche. Henri V!

D'autres membres du même côté. Rouher!

M. le président. Veuillez me permettre de continuer. . . . . .

Je dois consulter l'Assemblée sur la proposition qui vient d'être déposée entre mes mains.

M. le général Billot, *de sa place*. Il n'a pas été donné acte à M. le garde des sceaux du message portant la démission du Président de la République . . . l'acceptation de cette démission.

M. le président. Je vais faire droit à votre réclamation.

M. le général Billot. . . . Et l'Assemblée n'a pas statué sur l'acceptation de cette démission.

M. le président. M. le général Billot me fait observer que je n'ai pas donné acte à M. le garde des sceaux du message qu'il vient de me remettre. Je répare cette omission. (Très-bien! très-bien! à droite.)

M. George. Je demande la parole!

M. le président. Vous avez la parole.

M. George. Dans les circonstances actuelles, il me semble au moins décent que l'Assemblée nationale statue avant tout sur la question de savoir si, oui ou non, elle acceptera une démission que le pays n'accepte pas. (Double salve d'applaudissements au centre gauche. — Agitation.)

M. le président. Je consulte . . . (Bruit.)

M. Foubert. Je demande la parole.

M. le président. M. Foubert a la parole.

M. Foubert. Messieurs, M. le président m'a menacé de me rappeler à l'ordre, lorsque, qu'il me permette de le lui dire, je le rappelais lui-même à l'exécution du règlement.

Il me semble que jamais on ne peut passer outre à une démission sans qu'elle ait été acceptée par l'Assemblée. J'en citerai un exemple.

Lorsque M. Victor Hugo, à Bordeaux . . . (Exclamations à droite.)

M. le marquis de Castellane. Il ne manquait plus à M. Thiers que d'être comparé à Victor Hugo!

M. Foubert. . . . Lorsque M. Victor Hugo — j'ai de la mémoire, moi, — a donné sa démission de député, — c'était bien moins qu'une démission de Président de la République, quel que soit l'homme, — vous avez remis au lendemain avant de l'accepter. (Vive approbation et applaudissements à gauche.) Et aujourd'hui, quand il s'agit du premier magistrat de la République, de celui qui vous a rachetés. . . (Vives rumeurs à droite. — Applaudissements à gauche.) || Messieurs, moi, je n'ai jamais eu la mémoire courte . . . (Nouveaux applaudissements sur les mêmes bancs.) En entrant dans cette enceinte, mon premier sentiment a été celui de la gratitude. Je n'ai jamais été un ingrat. Je demande que ce que l'Assemblée a accordé à M. Victor Hugo . . . (Rires ironiques à droite. — Bravos et applaudissements à gauche) elle l'accorde au Président de la République, à celui, je le répète, qui a maintenu depuis deux ans et demi l'ordre dans le pays. (Allons donc! à droite! — Bravos et applaudissements à gauche.) || Et si on a la mémoire courte, je rappellerai que, en 1848, vous avez eu des émeutes, vous avez eu

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des descentes dans la rue, tandis que pendant que M. Thiers a été Président de la République, vous avez eu la paix, l'ordre, la tranquillité! (Bravos et applaudissements répétés au centre gauche.)

Voix à droite. Et la Commune? (Exclamations diverses.)

M. Foubert. Et la Commune? . . . Est-ce que c'est M. Thiers qui l'a faite? La Commune? . . . Mais c'est lui qui l'a vaincue.

Au centre gauche. Très-bien! très-bien!

Sur plusieurs bancs à droite. Assez! assez!

M. Foubert. Assez? . . . Non! . . J'ai encore quelque chose à vous dire. Vous oubliez que c'est aujourd'hui le 24 mai, et qu'il y a aujourd'hui deux ans que le Président de la République réduisait la Commune. (Exclamations à droite.)

M. Charles Rolland. Vous ne riiez pas à ce moment-là.

M. le marquis de Castellane. Il a vaincu la Commune avec le maréchal Mac Mahon et nos soldats.

M. Foubert. Le maréchal Mac Mahon, par qui a-t-il été nommé commandant des forces dirigées contre la Commune?

Voix à droite. Par nous!

M. Foubert. Vous vous trompez: il a été nommé par M. le Président de la République.

Un membre à droite. C'est nous qui avions nommé le Président de la République!

M. Foubert. Je dis, en terminant, que je n'ai pas mérité la menace de rappel à l'ordre, et je ne crois pas y avoir été rappelé réellement.

M. le président. C'est vrai!

M. Foubert. Je n'ai pas besoin de m'expliquer là-dessus. Mais, aujourd'hui, je demande que ce que vous avez accordé à M. Victor Hugo . . . (Exclamations à droite) vous l'accordiez à un homme, — entendez bien ceci! — à un homme qui a rendu tant de services à son pays. (Très-bien! à gauche. — Exclamations et rires à droite.)

M. le colonel de Chadois. Rira bien qui rira le dernier!

M. le président. Messieurs, plusieurs de nos collègues viennent de me remettre une proposition ainsi conçue:

"Les soussignés proposent que l'Assemblée n'accepte pas la démission de M. Thiers." (Très-bien! très-bien! à gauche.)

A droite. Les noms des signataires!

M. le président. Je vais lire les noms, messieurs; j'invite l'Assemblée au calme et au silence.

Cette demande est signée par MM. Soye, Parent, George, etc.

Un grand nombre de membres à gauche se levant. Tous! Tous!

M. le président. Je vais consulter l'Assemblée sur cette proposition. La proposition sur laquelle l'Assemblée va être appelée à se prononcer consiste à ne pas accepter la démission de M. Thiers. . . . . .

La proposition sur laquelle l'Assemblée va être appelée à se prononcer consiste à ne pas accepter la démission de M. Thiers . . . . .

(Le scrutin est ouvert et les votes sont recueillis.)

M. le président. Voici, messieurs, le résultat du scrutin:

Nombre des votants 693
Majorité absolue 347
Pour l'adoption 331
Contre 362

En conséquence, l'Assemblée nationale n'a pas adopté la proposition. (Mouvement prolongé.)

Messieurs, après avoir proclamé le résultat du scrutin, je suis certain d'être l'interprète des sentiments unanimes de l'Assemblée . . . (Bruyantes protestations à gauche.) en disant qu'elle a accepté avec regret une démission . . . (La violence des réclamations empêche M. le président de continuer.)

M. le colonel de Chadois. Gardez le silence, monsieur le président!

M. de Pressensé. C'est trop fort!

M. le président. Messieurs . . . .

A gauche. Non! non!

M. Langlois. Pas d'hypocrisie!

M. Horace de Choiseul. Le silence est plus digne!

M. le président. Messieurs, je réclame le silence . . .

A gauche, avec force. Non! non!

M. de Pressensé. Laissez l'histoire prononcer!

M. le président. Messieurs . . .

A gauche. Non! non!

M. le président. Je n'admets pas, messieurs . . . (Non! non!)

(M. le président essaie à plusieurs reprises de parler. Chaque fois, de bruyantes interruptions, parties des bancs de la gauche, couvrent sa voix.)

M. le président, *après avoir attendu que le silence se rétablît.* Je ne veux pas insister . . .

A gauche. Non! non!

M. Cornélis de Witt. Voilà la République conservatrice!

M. le président. Entend-on rendre la présidence impossible? (Bruit.) Je proteste contre cette violence.

(Tous les membres de la droite et du centre droit se lèvent en criant: Bravo! bravo! et en applaudissant avec énergie.)

M. le président, *se tournant vers la sténographie.* Le compte rendu officiel insérera . . . (Très-bien! très-bien! — Applaudissements à droite.) . . . le compte rendu officiel insérera mes protestations contre la violence de la minorité. (Redoublement d'applaudissement à droite.)

Je vais soumettre à l'Assemblée . . . (Non! non! à gauche.)

Messieurs, vous ne rendrez pas impossibles les délibérations de l'Assemblée . (Nouvelles interruptions à gauche.)

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Cette violence est un scandale, et je frapperai de peines disciplinaires ceux que je pourrai saisir comme en étant les promoteurs. (Vive approbation à droite et au centre droit.)

Je consulte l'Assemblée sur la proposition qui a été déposée entre mes mains et dont j'ai donné lecture tout à l'heure.

J'en relis le texte:

"Les soussignés,

"Vu la démission de M. Thiers, Président de la République française,

"Proposent à l'Assemblée de procéder immédiatement au scrutin sur la nomination de son successeur." (Applaudissements à droite.)

— — — — — — — — — — —

M. Schoelcher. Nous demandons la fixation à lundi.

M. le président. Je vais consulter l'Assemblée. Il suffit qu'une proposition parvienne jusqu'à moi et soit appuyée, c'est-à-dire faite par deux personnes, pour que je considère comme un devoir de la soumettre au vote de l'Assemblée. (Très-bien! très-bien!)

On propose de fixer à lundi la nomination du Président de la République. C'est le jour le plus éloigné, je le mets aux voix.

(Le renvoi à lundi n'est pas adopté.)

Voix à gauche. Nous proposons de renvoyer la nomination à demain.

M. le président. Je vais consulter l'Assemblée sur la fixation à demain.

(L'Assemblée, consultée, n'admet pas la fixation à demain.)

M. Wilson. Je demande une suspension d'une heure! (Non! non!)

M. le président. La proposition est-elle appuyée? (Non! non!)

Alors il n'y a pas lieu de la mettre aux voix.

L'Assemblée a décidé qu'elle allait procéder aujourd'hui même à l'élection du Président.

M. Horace de Choiseul. Pour combien de temps sera-t-il nommé? Sera-t-il irrévocable? . . .

M. le président. Je dois faire remarquer à l'Assemblée, — car, il ne m'appartient pas d'intervenir dans le débat, mais j'ai le devoir de poser la question et d'indiquer avec précision quelle est la question que l'Assemblée est appelée à résoudre, — je dois faire remarquer, dis-je, qu'il ne s'agit d'adopter aucune modification dans les lois et dans les institutions existantes. (Très-bien! très-bien! au centre et à droite. — Exclamations et rires ironiques à gauche.)

Le Président de la République qui sera élu en remplacement de M. Thiers se trouvera exactement dans les conditions légales et constitutionnelles où se trouvait M. Thiers lui-même. (Oui! oui! c'est cela!)

On va procéder au tirage au sort des scrutateurs pour le dépouillement du scrutin.

Lorsque ce tirage sera fait, j'ouvrirai le scrutin.

(Le scrutin, ouvert à dix heures, est fermé à onze heures. Le dé-

pouillement des votes est fait dans une salle contiguë à celle des séances.

Cette opération terminée, le résultat en est apporté à M. le président.)

M. le président. Voici le résultat du dépouillement du scrutin:

Nombre des votants		392
Bulletins blancs		1
Suffrages exprimés	391	
Majorité absolue	196	

M. le maréchal de Mac Mahon a obtenu 390 voix,

M. Grévy 1 voix.

En conséquence M. le maréchal de Mac Mahon est proclamé Président de la République française. (Bravos et applaudissements à droite et au centre droit.)

Je pense, messieurs, que vous jugerez convenable qu'une députation de votre bureau se rende auprès de M. le maréchal de Mac Mahon pour lui faire part de la décision de l'Assemblée nationale. La séance ne serait levée que lorsque nous aurons reçu la réponse de M. le maréchal. (Très-bien! très-bien! et applaudissements sur les mêmes bancs.)

La séance est suspendue pendant une demi-heure, mais elle n'est pas levée.

(Il est onze heures du soir. — M. le président de l'Assemblée cède le fauteuil à M. de Goulard, vice-président, qui s'y assied aux applaudissements redoublés de la droite et du centre droit.)

La séance est reprise à minuit moins un quart.

M. le président Buffet remplace M. de Goulard au fauteuil de la présidence.

M. le président. Messieurs, conformément aux ordres de l'Assemblée, une députation de son bureau, dont j'avais l'honneur de faire partie, s'est rendue auprès de M. le maréchal de Mac Mahon et lui a fait part de la décision de l'Assemblée. || Je dois dire que, pour vaincre la résistance, les objections et les scrupules de l'illustre maréchal, nous avons dû faire un énergique appel à cet esprit de dévouement et de sacrifice au pays, dont le maréchal a déjà donné tant de preuves . . . (Très-bien! très bien! — Applaudissements à droite.) et dont il donne aujourd'hui une preuve plus éclatante encore en acceptant les hautes, mais si difficiles fonctions que l'Assemblée lui confie. Je suis chargé par M. le maréchal — ce qui est peut-être d'ailleurs superflu, — d'exprimer l'espérance et la conviction que MM. les ministres actuels continueront à exercer leurs fonctions jusqu'à ce qu'un nouveau ministère ait été formé. (Nouveaux applaudissements à droite. — Bravo! bravo!) || L'ordre du jour de lundi portera d'abord communication du Gouvernement, s'il y a lieu, et ensuite continuation de l'ordre du jour tel qu'il a été précédemment réglé. Les différents projets de loi qui y ont été portés y resteront dans l'ordre indiqué.

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Quelques voix à droite. Vive la France!
Une voix à gauche. Vive la République!
(La séance est levée à minuit moins dix minutes.)

Nr. 5045.

FRANKREICH. — Annahme der Wahl zum Präsidenten der Republik seitens des Marschalls Mac Mahon.

[Aus dem Journal officiel.]

Nr. 5045. Frankreich. 24. Mai 1873.

Aujourd'hui, 24 mai, lorsque la séance du soir venait d'être levée, le président de l'Assemblée nationale a reçu la lettre suivante de M. le maréchal de Mac Mahon:

"Messieurs les représentants,

"J'obéis à la volonté de l'Assemblée, dépositaire de la souveraineté nationale, en acceptant la charge de Président de la Republique. C'est une lourde responsabilité imposée à mon patriotisme. Mais, avec l'aide de Dieu, le dévouement de notre armée, qui sera toujours l'armée de la loi, l'appui de tous les honnêtes gens, nous continuerons ensemble l'oeuvre de la libération du territoire et du rétablissement de l'ordre moral dans notre pays. Nous maintiendrons la paix intérieure et les principes sur lesquels repose la société. Je vous en donne ma parole d'honnête homme et de soldat.

"Maréchal de Mac Mahon,
duc de Magenta."

Nr. 5046.

FRANKREICH. — Botschaft des Präsidenten der Republik, Marschall Mac Mahon, verlesen in der Sitzung der Nationalversammlung vom 26. Mai 1873 durch den Minister des Auswärtigen, Vicepräsident des Ministerraths, Herzog von Broglie.

"Messieurs,

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"Appelé par l'Assemblée nationale à la présidence de la République, j'ai exercé sans retard le pouvoir que vous m'avez confié, et fait choix d'un ministère dont tous les membres sont sortis de vos rangs.

"La pensée qui m'a guidé dans la composition de ce ministère, et celle qui devra l'inspirer lui-même dans tous ses actes, c'est le respect de vos volontés et le désir d'en être toujours le scrupuleux exécuteur. (Très-bien! très-bien! à droite.)

"Le droit de la majorité est la règle de tous les gouvernements parlementaires, (Très-bien!) mais cette règle est surtout d'une application nécessaire dans les institutions qui nous régissent, en vertu desquelles le magistrat chargé du pouvoir exécutif n'est que le délégué de l'Assemblée . . . (Très-bien!) en qui réside la seule autorité véritable et qui est l'expression vivante de la loi. (Très-bien! très-bien!)

"Cette Assemblée, dans le cours des deux années d'existence qu'elle a déjà parcourues, a eu deux grandes tâches à remplir: libérer notre territoire envahi après d'affreux malheurs et rétablir l'ordre dans une société travaillée par l'esprit révolutionnaire.

"La première de ces deux tâches a été poursuivie avec un dévouement constant, non par la majorité seulement, mais par l'unanimité de ses représentants, la France peut le dire avec orgueil. (Très-bien! très-bien!) Aucune des grandes mesures qui ont eu pour but le rachat de notre indépendance nationale n'a soulevé dans cette enceinte un débat ni rencontré un contradicteur.

"Disons bien haut que ces mesures n'auraient pu être prises si le pays lui-même, le pays tout entier ne s'y était prêté, quelques onéreuses qu'elles fussent, avec une patience héroïque qui n'a laissé échapper ni une réclamation ni un murmure. (Très-bien! très-bien!) Ce concours de toutes les classes est la force principale qui est venue en aide dans d'habiles et patriotiques négociations à l'homme illustre que je remplace et dont une dissidence que je déplore sur la politique intérieure a seule pu vous séparer. (Très-bien! très-bien! sur plusieurs bancs au centre.)

"Je compte sur vous, messieurs, pour retrouver la même force dans les efforts que je devrai faire, afin d'achever par l'entière exécution de nos engagements cette oeuvre aujourd'hui, grâce à Dieu, presque accomplie.

"La tâche, d'ailleurs, sera facilitée par les excellents rapports que le dernier gouvernement a su rétablir entre la France et les puissances étrangères et que je m'efforcerai d'entretenir.

"Ma ligne de conduite à cet égard sera exactement celle qui a été indiquée plusieurs fois par mon prédécesseur, à cette tribune, et que vous avez toujours approuvée: Maintien de la paix assez hautement professé et pratiqué pour que l'Europe convaincue de notre sincérité ne puisse voir dans la réorganisation de notre armée — à laquelle je continuerai de travailler sans relâche — que le désir légitime de réparer nos forces et de conserver le rang qui nous appartient. (Très-bien! très-bien!)

"Dans la politique intérieure, le sentiment qui a dicté tous vos actes est l'esprit de conservation sociale. Toutes les grandes lois que vous avez votées

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à d'immenses majorités ont eu ce caractère essentiellement conservateur. Quelquefois divisés sur les questions purement politiques, vous vous êtes trouvés aisément réunis sur le terrain de la défense des grands principes fondamentaux sur lesquels repose la société et que menacent aujourd'hui tant d'audacieuses attaques.

"Le Gouvernement qui vous représente doit donc être et sera, je vous le garantis, énergiquement et résolûment conservateur. (Vive approbation à droite et au centre droit.)

"Des lois très-importantes sur l'organisation de l'armée, sur l'administration municipale, sur l'enseignement public, sur d'autres questions encore qui touchent à des intérêts de premier ordre, commerciaux et financiers, sont préparées ou débattues en ce moment dans vos commissions. Je crois d'avoir choisi des ministres compétents pour en traiter avec vous.

"D'autres lois qui soulèvent des questions constitutionnelles d'une haute gravité ont été présentées par mon prédécesseur, qu'une décision expresse de vous en avait chargé. Vous en êtes saisis; vous les examinerez, le Gouvernement lui-même les étudiera avec soin, et quand viendra le jour où vous jugerez convenable de les discuter, il vous donnera sur chaque point son opinion réfléchie.

"Mais pendant que vous délibérez, messieurs, le Gouvernement a le devoir et le droit d'agir. Sa tâche est, avant tout, d'administrer, c'est-à-dire d'assurer par une application journalière l'exécution des lois que vous faites et d'en faire pénétrer l'esprit dans les populations. (Très-bien! très-bien! à droite!) Imprimer à l'administration entière l'unité, la cohésion, l'esprit de suite, faire respecter partout et à tout instant la loi, en lui donnant à tous les degrés des organes qui la respectent et se respectent eux-mêmes . . . (Applaudissements à droite) c'est un devoir étroit, souvent pénible, mais par là même plus nécessaire à remplir à la suite des temps révolutionnaires. Le Gouvernement n'y faillira pas. (Très-bien!)

"Telles sont, messieurs, mes intentions, qui ne sont autres que de me conformer aux vôtres. A tous les titres qui commandent notre obéissance, l'Assemblée joint celui d'être le véritable boulevard de la société menacée en France et en Europe par une faction qui met en péril le repos de tous les peuples et qui ne hâte votre dissolution que parce qu'elle voit en vous le principal obstacle à ses desseins. (Très-bien! très-bien! à droite et au centre droit.)

"Je considère le poste où vous m'avez placé comme celui d'une sentinelle qui veille au maintien de l'intégrité de votre pouvoir souverain. (Bravos et applaudissements répétés à droite et au centre.)

"Maréchal de Mac Mahon,
duc de Magenta."

Nr. 5047.

FRANKREICH. — Min. d. Ausw. an die Vertreter Frankreichs im Auslande. — Circular betreffend den Amtsantritt des Präsidenten Mac Mahon.

26 mai 1873.

Nr. 5047. Frankreich. 26. Mai 1873.

Monsieur, — Vous avez été informé que, par un décret du 24 mai dernier, l'Assemblée nationale a accepté la démission de M. Thiers, Président de la République, et a désigné, pour le remplacer dans cette dignité, M. le maréchal de Mac Mahon, duc de Magenta. Je sais déjà avec quel respect et quelle approbation unanime a été accueilli partout le nom du nouveau Président. L'éclat de ses services, l'intégrité de son caractère l'appelaient naturellement à ces hautes fonctions. || Je crois cependant nécessaire de vous indiquer brièvement la portée des événements qui ont amené ce changement dans la personne du dépositaire du pouvoir suprême. Le différend qui s'est élevé entre la majorité de l'Assemblée nationale et M. Thiers n'a porté sur aucun point relatif à la politique étrangère. Vous pouvez vous souvenir que, pendant le cours des deux années qui viennent de s'écouler, la conduite adoptée par M. Thiers pour rétablir nos rapports avec les puissances étrangères après les désastres de 1870 n'a fait l'objet d'aucun débat dans l'Assemblée. Des votes nombreux, au contraire, ont approuvé les efforts qu'a faits avec succès cet homme illustre pour effacer les traces de nos malheurs et rendre à la France sa pleine indépendance nationale. Le nouveau Président, dans son Message que les journaux vous ont fait connaître, rend à cet égard, vous l'aurez remarqué, pleine justice à son prédécesseur. || Vous n'aurez donc rien à changer aux instructions que vous avez reçues du dernier gouvernement; je les développerai quand l'occasion s'en présentera, d'après les renseignements que vous m'aurez transmis vous-même; mais, en attendant, vous devez rester fidèle à la ligne de conduite qui vous a été tracée. || C'est sur la politique intérieure uniquement que le Président et l'Assemblée sont entrés en dissentiment. La majorité de l'Assemblée a pensé qu'une résistance énergique devait être opposée aux progrès de l'esprit révolutionnaire attestés par les derniers résultats électoraux, et n'a pas trouvé que le cabinet formé par le Président à la suite de ces élections présentât toutes les garanties qu'elle désirait à ce point de vue essentiellement conservateur. Un ordre du jour qui exprimait cette pensée a été adopté, et les ministres ayant donné leur démission, le Président n'a pas cru pouvoir changer sa ligne de conduite et les a accompagnés dans leur retraite. || Le nouveau gouvernement, se conformant à son origine, suivra donc une politique résolûment conservatrice, c'est-à-dire pacifique au dehors et modérée au dedans. Opposant une sévérité inflexible à toutes les tentatives que ferait le parti révolutionnaire pour étendre son influence par des voies illégales, il ne sortira pas lui-même de

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la légalité la plus stricte. Aucune réaction n'est méditée et ne sera tentée contre les institutions existantes; les lois constitutionnelles présentées par nos prédécesseurs restent soumises au jugement de l'Assemblée qui tranchera seule, quand elle le jugera convenable, la question suprême de la forme du gouvernement. || En expliquant ainsi, suivant la réalité des faits, le sens de cet important événement, vous ne manquerez pas de faire remarquer que la question débattue à l'Assemblée nationale intéressait non-seulement le repos de la France, mais celui de toutes les nations. Ce n'est point en France seulement que l'esprit révolutionnaire conspire contre la paix publique et contre les bases mêmes de l'ordre social. Aucune nation de l'Europe n'est exempte de ce mal, et toutes ont un égal intérêt à le voir réprimé. La situation de la France et l'action puissante qu'elle exerce autour d'elle rendraient le triomphe du parti révolutionnaire dans notre patrie plus grave que partout ailleurs, et la cause de la société française est celle de la civilisation tout entière. || Ces considérations doivent servir de règle au langage que vous tiendrez au sujet des derniers événements, et vous vous efforcerez de les faire apprécier au gouvernement auprès duquel vous êtes accrédité. || Agréez, etc.

Broglie.

Nr. 5048.

FRANKREICH. — Min. d. Innern an die Praefecten. — Circular betreffend die Haltung der neuen Regierung.

Versailles, le 1er juin 1873.

Nr. 5048. Frankreich. 1. Juni 1873.

Monsieur le préfet, — Je vous disais dans ma dépêche du 25 mai: "Aucune équivoque ne doit altérer le caractère des résolutions de l'Assemblée nationale auxquelles le gouvernement se conformera scrupuleusement. Rien n'est changé dans les institutions qui régissent la France; le Président de la République exerce le pouvoir au même titre et en vertu des mêmes lois que son prédécesseur." || Cette déclaration que je vous adressais dès la première heure avait pour but de faire ressortir les conditions de légalité rigoureuse dans lesquelles s'est accomplie la transmission du pouvoir exécutif. || Pour la première fois, en effet, un gouvernement tout entier a fait place à un gouvernement nouveau sans que la sécurité ait été compromise; le pays est resté calme, les administrations ont fonctionné avec régularité, le travail ne s'est pas ralenti, le crédit s'est relevé et la confiance des nations voisines n'a pas été ébranlée. || Ce rare exemple contient pour l'avenir des présages rassurants et nous apprend que la liberté, quelle que soit la forme du gouvernement, cesse d'être un danger lorsqu'elle est contenue par le respect absolu

de la loi. || Le gouvernement, Monsieur le préfet, vous donne sa confiance; il réclame en échange tout votre dévouement. Mes instructions ne vous feront pas défaut; n'hésitez pas à vous y conformer, et ma responsabilité couvrira toujours la vôtre. Ce que l'Assemblée nationale attend avant tout du gouvernement qu'elle a institué, c'est un personnel administratif inspiré par une même pensée, dirigé avec précision et se mettant ouvertement à la tête des conservateurs. || L'administration doit être, à tous ses degrés, la représentation fidèle de cette politique réparatrice, qui seule peut raffermir un pays si cruellement éprouvé. N'hésitez pas à dire bien haut de quel côté sont vos sympathies et nos encouragements: appelez à l'union tous les bons citoyens; qu'ils se fortifient par la pratique exacte des devoirs de la vie publique; ce n'est que par cette ferme conduite et par le maintien énergique de tous les principes conservateurs que nous pourrons constituer en France une vraie majorité de gouvernement. || Entrez, dès à présent, en communication constante avec les populations que vous administrez; la netteté de votre attitude suffira pour relever leur moral, décourager les tendances anarchiques et assurer partout le respect de l'Assemblée nationale et de la loi. || Que tous ceux qui veulent réorganiser le pays sous la présidence de l'illustre maréchal que les dépositaires de la souveraineté nationale ont élu, sachent enfin qu'ils seront résolûment soutenus et défendus. || Recevez, Monsieur le préfet, l'assurance de ma considération très-distinguée.

Le ministre de l'intérieur,
Beulé.

Nr. 5049.

FRANKREICH. — Botschaft des Präsidenten Mac Mahon an die Nationalversammlung anlässlich deren Vertagung.

Messieurs,

L'Assemblée nationale a décidé qu'elle suspendrait pendant quelques mois ses travaux. Elle peut s'éloigner sans inquiétude.

J'ose lui donner l'assurance que rien en son absence ne viendra compromettre l'ordre public, et que son autorité légitime sera partout respectée. J'y veillerai de concert avec le ministère que j'ai choisi dans vos rangs.

Je me félicite de voir que ce ministère est honoré de votre confiance. L'accord si désirable du gouvernement et de l'Assemblée a déjà, même dans le court espace de temps qui s'est écoulé depuis que vous m'avez remis le pouvoir, fait sentir ses heureux effets.

Grâce à cette union, des lois importantes ont pu être votées presque sans débat. Je place au premier rang celle qui assure la défense du pays,

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en donnant une organisation définitive à l'armée que vous saluïez, il y a peu de jours, de vos acclamations.

Quand vous vous réunirez de nouveau, un grand événement impatiemment attendu sera consommé. L'occupation étrangère aura cessé; nos départements de l'Est, qui ont si noblement payé leur dette à la patrie, puisqu'ils ont été les premières victimes de la guerre et les derniers gages de la paix, seront enfin soulagés d'une épreuve héroïquement supportée, et nous ne verrons plus sur le territoire français d'autre armée que l'armée française; ce bienfait inappréciable est l'oeuvre commune du patriotisme de tous.

Mon prédécesseur a puissamment contribué par d'heureusesn égociations à le préparer. Vous l'avez aidé dans sa tâche en lui prêtant un concours qui ne lui a jamais fait défaut, et en maintenant une politique prudente et ferme, qui a permis au développement de la richesse publique d'effacer rapidement les traces de nos désastres. Enfin ce sont nos laborieuses populations surtout qui ont hâté elles-mêmes l'heure de leur libération par leur empressement à se résigner aux plus lourdes charges.

La France, dans ce jour solennel, témoignera sa reconnaissance à tous ceux qui l'ont servie; mais, dans l'expression de sa joie patriotique, elle gardera la mesure qui convient à sa dignité, et elle réprouverait, j'en suis sûr, des manifestations bruyantes peu conformes aux souvenirs qu'elle conserve des sacrifices douloureux que la paix a coûtés.

Cette paix, si chèrement acquise, c'est notre premier besoin, et notre ferme résolution est de la maintenir.

Rendue à la complète possession d'elle-même, la France sera mieux en mesure encore qu'auparavant d'entretenir avec toutes les puissances étrangères des rapports de sincère amitié.

Les sentiments sont réciproques de leur part; j'en reçois chaque jour l'assurance formelle.

C'est le fruit de la sage ligne de conduite que l'Assemblée elle-même, oubliant ses dissentiments intérieurs pour ne songer qu'aux intérêts généraux de la patrie, a consacrée plus d'une fois par l'unanimité de ses suffrages. Vous m'approuverez d'y persévérer. .

Maréchal de Mac Mahon,
duc de Magenta.

Versailles, 29 juillet 1873.

Nr. 5050.

DEUTSCHLAND. — Thronrede des Kaisers bei Eröffnung der zweiten Session des ersten Deutschen Reichstags, am 16. October 1871.

Nr. 5050. Deutschland. 16. Oct. 1871.

Geehrte Herren!

Als Ich Sie im März dieses Jahres zum ersten Male begrüsste, hatten die Vorarbeiten für die regelmässige Gesetzgebung durch den Krieg Verzögerungen und Unterbrechungen erlitten. Ihre Thätigkeit war vorzugsweise für diejenigen Fragen in Anspruch zu nehmen, welche sich unmittelbar aus der neuen Gestaltung Deutschlands herleiteten. Gegenwärtig wird die Ordnung des Reichshaushalts Ihre hauptsächlichste Aufgabe sein. Es kommt darauf an, durch Verwendung eines Theiles der Mittel, welche wir den Erfolgen des Krieges verdanken, die einzelnen Bundesstaaten von den Vorschüssen zu entlasten, welche sie bisher für die Zwecke des Reichs zu leisten hatten, um auf diesem Wege ein normales Verhältniss zwischen dem Haushalt des Reichs und dem Haushalt seiner Glieder herzustellen. Es kommt darauf an, die für Deutschland neu erworbenen Gebiete mit denjenigen Einrichtungen in den Haushalt des Reiches einzufügen, welche ihnen mit dem Reiche gemeinsam sind oder ihnen von letzterem gewährt werden. Es kommt darauf an, dafür Sorge zu tragen, dass die äussere Lage der Beamten des Reiches den Anforderungen entspreche, welche im öffentlichen Interesse an sie gestellt werden müssen. || Ich hatte gehofft, dass Ihnen auch ein Etat für die Verwaltung des deutschen Heeres, wie er den dauernden Bedürfnissen desselben genügt, würde vorgelegt werden können. Der Umfang, in welchem die durch den Krieg veranlassten Arbeiten alle Kräfte der Verwaltung auch über die Dauer des Krieges hinaus in Anspruch genommen haben, und die Umgestaltung, in welcher ein Theil des Heeres begriffen ist, haben leider die rechtzeitige Aufstellung dieses Etats verhindert. Ich bin daher genöthigt, Ihre Zustimmung dafür in Anspruch zu nehmen, dass die Uebergangszeit,

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welche die Reichsverfassung bis zum Schlusse des laufenden Jahres für den Militär-Etat bestimmt, noch auf das kommende Jahr ausgedehnt werde. Der Ihnen vorzulegende Etat verlangt von den Bundesstaaten keine höheren Beiträge für die Zwecke des Reiches, als der jetzt geltende. || Der Haushalt des Jahres 1870 hat, ungeachtet der Wirkungen des Krieges, einen Ueberschuss gelassen, wegen dessen Verwendung Ihnen eine Gesetzvorlage zugeht. || Die Ordnung des Münzwesens, welche die Verfassung dem Reiche überweist, hat seit Jahren die Sorge der Regierungen in Anspruch genommen und das Interesse des Volkes beschäftigt. Ich habe den Augenblick für gekommen gehalten, um den Grund für diese Ordnung zu legen, nachdem eine ganz Deutschland umfassende Regelung des Münzwesens möglich geworden ist und die wirthschaftlichen Verhältnisse für dieselben niemals günstiger waren, als jetzt. Der Bundesrath ist mit der Berathung einer Gesetzvorlage beschäftigt, welche zunächst eine umlaufsfähige Goldmünze schaffen und die Grundzüge eines gemeinsamen deutschen Münzwesens feststellen soll. || Die Sicherung einer Eisenbahn-Verbindung zwischen Deutschland und Italien durch die Schweiz, welche bereits im verflossenen Jahre von dem Norddeutschen Reichstag beschlossen wurde, wird Gegenstand Ihrer Berathung werden. Die Regierungen und Volksvertretungen Italiens und der Schweiz haben die Ausführung dieses grossen Unternehmens bereitwillig unterstützt. Ich bin gewiss, dass die mit demselben verbundenen wirthschaftlichen und politischen Interessen von den deutschen Regierungen und dem Deutschen Reichstage nicht geringer werden gewürdigt werden, als dies in den beiden andern Ländern geschehen ist. || Die Gewährung einer billigen Ausgleichung für die Beschränkungen, welchen die in den Bereich neuer oder erweiterter Festungsanlagen gezogenen Grundstücke unterworfen werden müssen, ist von den verbündeten Regierungen von Neuem zum Gegenstande der Berathungen gemacht worden. Als Ergebniss derselben wird Ihnen eine Gesetzvorlage zugehen. Auch der Entwurf eines Gesetzes über die Reichsbeamten wird, wie Ich hoffe, Ihnen vorgelegt werden können. || Die von Frankreich bisher gezahlte und in den ersten Monaten des künftigen Jahres zu zahlende Kriegsentschädigung wird zu einem wesentlichen Theile zur Tilgung der Anleihen verwendet werden, welche der Norddeutsche Bund für die Kriegsführung gemacht hatte. Für einen Theil dieser Anleihen ist die Tilgung bereits erfolgt oder durch Kündigung vorbereitet, für einen Theil bedarf sie Ihrer Zustimmung. Es wird Ihnen deshalb eine Vorlage zugehen. || Im Vertrauen auf eine stetige Fortentwickelung der inneren Zustände Frankreichs im Sinne der Beruhigung und Befestigung habe Ich es für thunlich gehalten, die Räumung der Departements, deren Besetzung nach den Friedensbedingungen bis zum Mai künftigen Jahres in Aussicht genommen war, schon jetzt eintreten zu lassen; die Bürgschaften, welche an Stelle des aufgegebenen Pfandes treten, werden Sie aus dem am 12. d. M. darüber geschlossenen Abkommen ersehen, und mit demselben wird Ihnen zu Ihrer Prüfung und verfassungsmässigen Genehmigung eine Convention

über die Zugeständnisse vorgelegt werden, welche von Deutschland für die der Industrie Elsass-Lothringens zu sichernden Erleichterungen zu machen sein werden. || Auf dem Gebiete der auswärtigen Politik hat Meine Aufmerksamkeit der Ausbildung und Befestigung des mit Frankreich neu geschlossenen Friedens um so ungetheilter gewidmet sein können, als die Beziehungen Deutschlands zu allen auswärtigen Regierungen friedliche und von gegenseitigem Wohlwollen getragen sind. Meine Bemühungen bleiben dahin gerichtet, das berechtigte Vertrauen zu stärken, dass das neue Deutsche Reich ein zuverlässiger Hort des Friedens sein will. || In dieser Richtung ist es eine besonders wichtige, aber Mir auch besonders willkommene Aufgabe, mit den nächsten Nachbarn Deutschlands, den Herrschern der mächtigen Reiche, welche dasselbe von der Ostsee bis zum Bodensee unmittelbar begrenzen, freundschaftliche Beziehungen von solcher Art zu pflegen, dass ihre Zuverlässigkeit in der öffentlichen Meinung aller Länder ausser Zweifel stehe. Der Gedanke, dass die Begegnungen, welche Ich in diesem Sommer mit den Mir persönlich so nahe stehenden Monarchen dieser Nachbarreiche gehabt habe, durch Kräftigung des allgemeinen Vertrauens auf eine friedliche Zukunft Europa's der Verwirklichung einer solchen förderlich sein werden, ist Meinem Herzen besonders wohlthuend. || Das Deutsche Reich und der österreichisch-ungarische Kaiserstaat sind durch ihre geographische Lage und ihre geschichtliche Entwickelung so zwingend und so mannigfaltig auf freund-nachbarliche Beziehungen angewiesen, dass die Befreiung der letzteren von jeder Trübung durch die Erinnerung an Kämpfe, welche eine unerwünschte Erbschaft tausendjähriger Vergangenheit waren, dem ganzen deutschen Volke zur aufrichtigen Befriedigung gereichen wird. Dass eine solche Befriedigung der Gesammtentwickelung des Deutschen Reiches gegenüber von der grossen Mehrheit der Nation empfunden wird, dafür bürgt Mir der herzliche Empfang, der Mir in Meiner dieses Reich vertretenden Stellung in allen Gauen des grossen Vaterlandes kürzlich zu Theil geworden ist, und der Mich mit freudiger Genugthuung, vor Allem aber mit Dank gegen Gott für den Segen erfüllt hat, der unserem gemeinsamen Streben auch in Zukunft nicht fehlen wird.

Nr. 5050. Deutschland. 16. Oct. 1871.

Nr. 5051.

DEUTSCHLAND. — Thronrede bei Eröffnung der dritten Session des ersten Deutschen Reichstages, verlesen vom Reichskanzler, Fürsten von Bismarck, am 8. April 1872.

Geehrte Herren!

Ihre Thätigkeit wird in bevorstehender Session in erster Linie durch die Fortführung der im Vorjahre begonnenen gesetzlichen Regelung und Ausbildung

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der gemeinschaftlichen Einrichtungen des Reiches in Anspruch genommen werden. || Durch ein Gesetz über die Einrichtung und die Befugnisse des Rechnungshofes soll die Controle der Erhebung und der Verwendung der Einnahmen des Reiches definitiv geordnet und die Behörde, welche mit der Handhabung dieser Controle, so wie mit der Vorbereitung der durch den Bundesrath und den Reichstag auszusprechenden Entlastung zu betrauen ist, mit den dazu erforderlichen Befugnissen ausgestattet werden. || Der Entwurf eines Militär-Strafgesetzbuches für das Deutsche Reich wird Ihnen vorgelegt werden, um die Einheitlichkeit der Heereseinrichtungen auf dem Gebiete des Strafrechtes zum Abschluss zu bringen und der bereits gewonnenen Einheit des Strafrechtes für das bürgerliche Leben, den vom Reichstage geäusserten Wünschen entsprechend, als Ergänzung hinzuzutreten. || Der Entwurf eines zur Regelung der Verhältnisse der Reichsbeamten bestimmten Gesetzes, welcher dem Reichstage bereits vorgelegen hat, ist unter Beachtung des Gutachtens der Commission des Reichstages und der inzwischen eingetretenen politischen Veränderungen einer neuen Prüfung unterzogen worden, und wird in der danach veränderten Gestalt Ihrer Beschlussfassung unterbreitet werden. || Die einheitliche Regelung der Bierbesteuerung innerhalb der Gebiete, welchen die Abgabe von Bier gemeinschaftlich ist, hat Ihre Thätigkeit schon mehrfach in Anspruch genommen, ohne dass es bis dahin gelungen wäre, die derselben entgegenstehenden Schwierigkeiten zu überwinden. Eine Ihnen zugehende Gesetzvorlage wegen Erhebung der Brausteuer im Deutschen Reich hat den Zweck, diese Aufgabe zu lösen und zugleich durch Mitbesteuerung der Malzsurrogate eine dem Interesse der Finanzen sowohl wie des Verbrauchs entsprechende Reform der Braumalzsteuer durchzuführen. || Die erfreuliche Steigerung des Verkehrs und Verbrauchs hat die Möglichkeit geboten, in dem Ihnen vorzulegenden Reichshaushaltsetat für das Jahr 1873 die Einnahme aus den gemeinschaftlichen Verbrauchsabgaben und die Ueberschüsse der Postverwaltung unter Beachtung der bewährten Grundsätze vorsichtiger Veranschlagung höher auszubringen, so dass trotz des in verschiedenen Kreisen der Ausgabe-Verwaltung hervorgetretenen Mehrbedarfs eine Verminderung der Matricularbeiträge in Aussicht zu nehmen ist. || Ein Nachtrag zum Reichshaushaltsetat für das Jahr 1872 ist bestimmt, neben der Befriedigung einiger anderer nachträglich hervorgetretener Bedürfnisse die Mittel für Begründung eines statistischen Amtes aufzubringen, welches im Stande sein würde, durch einheitliche wissenschaftliche Bearbeitung der Ergebnisse statistischer Erhebungen im Reiche der Gesetzgebung und Verwaltung, sowie der wissenschaftlichen Erkenntniss der staatlichen und gesellschaftlichen Zustände wesentliche Dienste zu leisten. || Die Verwaltung des Jahres 1871 hat erhebliche finanzielle Ueberschüsse sowohl bei den Steuern als auch bei der Postverwaltung ergeben. Ueber die Verwendung derselben wird Ihnen ebenso wie über die gesetzliche Regelung der Verwendung und Vertheilung der französischen Kriegsentschädigung eine Vorlage zugehen. || Ueber die durch den Krieg mit Frankreich ver-

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anlassten Ausgaben der Staaten des vormaligen Norddeutschen Bundes wird Ihnen, den Bestimmungen der in den Jahren 1870 und 1871 erlassenen Creditgesetze entsprechend, ein Rechenschaftsbericht erstattet werden. || Die mit der Regierung des Königreiches Portugal seit Jahren gepflogenen Verhandlungen haben am 2. März d. J. zum Abschluss eines Vertrages geführt, welcher nach dem Vorbilde der mit anderen Staaten abgeschlossenen Handels- und Schifffahrts-Verträge die gegenseitigen Verkehrsbeziehungen auf dem Fusse der meistbegünstigten Nationen regelt und, wie zu hoffen, die Grundlage für die Anknüpfung intimerer und ausgedehnterer Handelsverbindungen zwischen Deutschland und Portugal bilden wird. Der Vertrag wird Ihnen zur Genehmigung vorgelegt werden. || Ebenso eine mit den Vereinigten Staaten von Amerika abgeschlossene Consular-Convention und ein mit Frankreich abgeschlossener Postvertrag, welcher die gegenseitigen postalischen Beziehungen unter Berücksichtigung der Bedürfnisse des in stetem Wachsthum begriffenen Correspondenzverkehrs regelt. || Die Neuordnung und Befestigung der Verhältnisse von Elsass-Lothringen schreitet in erwünschter Weise vor. Die Schäden des Krieges gehen mit Hülfe der Unterstützung, welche nach dem Gesetze vom 14. Juni 1871 aus Reichsmitteln gewährt werden darf, allmählich der Heilung entgegen. Die Grundlagen für die deutsche Verwaltung sind gelegt, die Rechtspflege ist gesichert und die Universität in Strassburg soll am 1. Mai d. J. ins Leben treten. Für den ausserordentlichen Aufwand, welchen die Einrichtung der damit zu verbindenden wissenschaftlichen Institute erheischt, wird auf die Hülfe des Reichs gerechnet werden dürfen. Eine Uebersicht der bisher erlassenen Gesetze und allgemeinen Anordnungen sowie über den Gang der Verwaltung des Landes wird entsprechend der Vorschrift des Gesetzes vom 9. Juni v. J. Ihnen zugehen. || Sie werden, geehrte Herren, die Befriedigung theilen, mit welcher die verbündeten Regierungen auf die Ergebnisse des ersten Jahres des neu begründeten Deutschen Reiches zurückblicken, und der ferneren staatlichen und nationalen Entwickelung unserer inneren Einrichtungen mit freudiger Zuversicht näher treten. || Mit derselben Genugthuung werden Sie die Versicherung entgegennehmen, dass es der Politik Seiner Majestät des Kaisers und Königs gelungen ist, bei allen auswärtigen Regierungen das Vertrauen zu erhalten und zu befestigen, dass die Macht, welche Deutschland durch seine Einigung zum Reich gewonnen hat, nicht nur dem Vaterlande eine sichere Schutzwehr, sondern auch dem Frieden Europa's eine starke Bürgschaft gewährt.

Nr. 5052.

DEUTSCHLAND. — Thronrede des Kaisers bei Eröffnung der vierten Session des ersten Deutschen Reichstages, am 12. März 1873.

Nr. 5052. Deutschland. 12. März 1873.

Geehrte Herren!

Im Namen der verbündeten Regierungen heisse Ich Sie zur letzten Session der Legislatur-Periode willkommen. || Während dreier Sessionen haben Sie in Gemeinschaft mit dem Bundesrathe eine doppelte Aufgabe zu erfüllen gehabt, die Befestigung und Ausbildung der durch die Reichsverfassung geschaffenen Institutionen und die Ordnung und Regelung der durch einen grossen Krieg herbeigeführten ausserordentlichen Verhältnisse. In beiden Beziehungen wird Ihre Thätigkeit wiederum in Anspruch genommen werden, theils für den Abschluss der in ihren Grundlagen bereits festgestellten, theils für die Schöpfung neuer Einrichtungen. || Das Eigenthums-Verhältniss an den, aus den Verwaltungen der einzelnen Bundesstaaten an die Reichsverwaltung übergegangenen Grundstücken bedarf der gesetzlichen Regelung, um die immer mehr hervortretenden Schwierigkeiten zu beseitigen, welche von der über diesem Verhältniss ruhenden Unklarheit unzertrennlich sind. || Das deutsche Festungssystem erheischt eine Umgestaltung, welche, indem sie die Vertheidigungsfähigkeit der grossen Waffenplätze erhöht, den Verzicht auf die Erhaltung anderer Befestigungen gestattet. Die Ansprüche, welche den Invaliden aus dem letzten Kriege und deren Hinterbliebenen gesetzlich zustehen, erfordern Einrichtungen, welche Gewähr dafür leisten, dass die Deckung dieser Ansprüche aus der Kriegsentschädigung bestritten werden wird, ohne auf die regelmässigen Einnahmen des Reichs zurückzugehen. || Der vor sechs Jahren für die Entwickelung der Kriegsmarine festgestellte, seiner Ausführung nahe gebrachte Plan wird in Betracht der seitdem eingetretenen Verhältnisse und gewonnenen Erfahrungen einer, in Ihrer letzten Session auch von Ihnen angeregten Umgestaltung zu unterwerfen sein. || Ein allgemeines Militärgesetz ist in der Verfassung verheissen, und durch die Erweiterung des deutschen Heeres zu einer Nothwendigkeit geworden. Auf der Grundlage des Gesetzes über die Verpflichtung zum Kriegsdienste und der erprobten Einrichtungen der Armee wird es der Wehrkraft der Nation die Ausbildung sichern, um welche uns das Ausland beneidet, und welche die Bürgschaft dafür bietet, dass Deutschland sich in Frieden der Güter erfreue, die es auf geistigem und wirthschaftlichem Gebiete erwirbt. Die Leistungen, welche vom Lande im Falle eines Krieges zu fordern und die Grundsätze, nach welchen diese Leistungen zu vergüten sind, werden ebenfalls, unter Beachtung der im letzten Kriege gemachten Erfahrungen, neu und gleichmässig zu ordnen sein. || Durch die Beschlüsse in Ihrer vorletzten Session haben Sie die äussere Lage der

Reichsbeamten günstiger gestaltet. Die Erfahrung hat gezeigt, dass die damals von Ihnen verlangten und bereitwillig gewährten Bewilligungen nicht ausreichen, um das Einkommen der Beamten so zu regeln, wie das öffentliche Interesse es erfordert. Dieselben Erfahrungen erheischen mit gleicher Dringlichkeit eine Verbesserung des Einkommens der Offiziere und Unteroffiziere. Die günstige Lage der Einnahmen des Reichs wird es gestatten, diese Zwecke ohne Erhöhung der Matricularbeiträge zu erreichen. Um so mehr vertraue Ich, dass den Vorlagen, welche für diese Zwecke nach erfolgter Zustimmung des Bundesrathes Ihnen zugehen werden, Ihre Genehmigung nicht fehlen wird.

Die in ihrer Grundlage festgestellte Neugestaltung des deutschen Münzwesens soll durch einen Ihnen zugehenden Gesetzentwurf ihren endgültigen Abschluss erhalten. Für die Beförderung von Packeten und Werthsendungen durch die Post wird Ihnen ein neuer Tarif vorgelegt werden, welcher den doppelten Zweck hat, die bestehenden Sätze wesentlich zu vereinfachen und in den meisten Fällen erheblich zu ermässigen. ‖ In Folge der, während Ihrer letzten Session über die Salzsteuer stattgefundenen Verhandlungen hat der Bundesrath eine eingehende Erörterung der Frage eingeleitet: auf welchem Wege die, bei Aufhebung dieser Steuer ausfallende Einnahme anderweit zu beschaffen sei. Diese Erörterung ist ihrem Abschluss nahe, und es wird ihr Ergebniss einen Gegenstand Ihrer Berathungen bilden. ‖ Wenige Tage nach dem Schluss Ihrer letzten Session wurde mit Frankreich eine Uebereinkunft getroffen, welche die Fristen für die Zahlung des letzten Theiles der Kriegskosten-Entschädigung und, im Zusammenhange damit, für die Räumung der von unseren Truppen besetzten Gebietstheile regelt. Die Ihnen über diese Uebereinkunft und deren Ausführung zu machenden Mittheilungen werden zeigen, dass Frankreich mit seinen Zahlungen den verabredeten Terminen weit vorausgeeilt, und dass daher der Zeitpunkt gekommen ist, um die in dem vorjährigen Gesetze über die Kriegskosten-Entschädigung noch vorbehaltenen Fragen zu entscheiden. Auch über diese Fragen werden Ihnen Vorlagen gemacht werden. ‖ Das von Mir im vergangenen Jahre an dieser Stelle ausgesprochene Vertrauen auf eine Entwickelung der inneren Zustände Frankreichs im Sinne der Beruhigung und der wirthschaftlichen Fortschritte ist nicht getäuscht worden. Ich begründe hierauf die Hoffnung, dass der Augenblick nicht mehr fern sein werde, wo die vollständige Abwickelung unserer finanziellen Auseinandersetzung mit der französischen Regierung die gänzliche Räumung des französischen Gebiets früher, als in Aussicht genommen war, herbeiführen wird. ‖ Die Beziehungen des Reichs zu allen auswärtigen Staaten rechtfertigen das volle Vertrauen, mit welchem Ich auf die Erhaltung und die fortschreitende Befestigung des Friedens rechne. Dieses Mein Vertrauen schöpft seine volle Berechtigung aus Meinen freundschaftlichen Beziehungen zu den Herrschern der mächtigen Nachbarreiche Deutschlands, welche ihre Bestätigung und Kräftigung durch den Besuch erhalten haben, der Mir von Seiten der Mir so nahe befreundeten mächtigen Monarchen vor wenig Monaten

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zu Theil geworden ist. || Diese den Frieden verbürgenden Beziehungen zu unseren Nachbarn zu pflegen werde Ich fortgesetzt als Meine erwünschte und mit Gottes Hülfe erfüllbare Aufgabe ansehen.

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DEUTSCHLAND und PERSIEN. — Freundschafts-, Handels- und Schifffahrts-Vertrag vom 11. Juni 1873 nebst zusätzlicher Uebereinkunft vom 6. Juni 1873.

Au nom de Dieu clément et miséricordieux!

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Sa Majesté l'Empereur d'Allemagne, d'une part, et Sa Majesté, dont le Soleil est l'étendard, le Sacré, l'Auguste et Grand Monarque, le Souverain absolu et l'Empereur des Empereurs de tous les Etats de Perse, d'autre part,

L'un et l'autre également et sincèrement désireux de resserrer les rapports d'amitié entre l'Empire d'Allemagne et l'Empire Persan, sont convenus de reviser les traités existants et de les remplacer par un nouveau traité d'amitié, de commerce et de navigation réciproquement avantageux et utile aux sujets des Hautes Puissances contractantes.

A cet effet ont nommé pour leurs Plénipotentiaires:

Sa Majesté l'Empereur d'Allemagne:

Son Altesse Sérénissime, Monseigneur le Prince Henri VII. Reuss, Lieutenant-Général et Son Aide de Camp Général, Son Ambassadeur Extraordinaire et Plénipotentiaire etc. etc. etc.

Et Sa Majesté le Shahinshah de Perse:

Son Excellence Mirza Abdulrahim Khan saïd oul Moulk, Son Envoyé Extraordinaire et Ministre Plénipotentiaire etc. etc. etc.

Et les deux Plénipotentiaires s'étant réunis à St. Pétersbourg ayant échangé leurs pleinpouvoirs et les ayant trouvés en bonne et dûe forme, sont convenus des articles suivants:

Art. 1. Il y aura comme par le passé amitié sincère et bonne intelligence entre les Etats et les sujets des Hautes Parties contractantes.

Art. 2. Les Ambassadeurs, Ministres Plénipotentiaires ou autre Agents diplomatiques respectifs seront reçus et traités réciproquement, eux et tout le personnel de leurs missions comme sont reçus dans les pays respectifs les Ambassadeurs, Ministres Plénipotentiaires ou autres Agents diplomatiques des nations les plus favorisées, et ils y jouiront de tout point, des mêmes honneurs, prérogatives et immunités.

Art. 3. Pour la protection de leurs sujets et de leur commerce respectifs, et pour faciliter de bonnes et équitables relations entre leurs sujets, les Hautes Parties contractantes se réservent la faculté de nommer chacune trois

Consuls dans les Etats respectifs. || Les Consuls d'Allemagne résideront à Téhéran, à Tauris et à Bender-Bouchir. || Les Consuls de Perse résideront en Allemagne partout où se trouvent des Consuls d'une Puissance étrangère. || Ces Consuls des Hautes Puissances contractantes jouiront réciproquement tant pour leur personne et l'exercice de leurs fonctions que pour leurs maisons, les employés de leurs consulats et les personnes attachées à leur service, des mêmes honneurs et des mêmes privilèges dont jouissent et jouiront à l'avenir les Agents consulaires de la nation la plus favorisée. || En cas de désordres publics, il devra être accordé aux Consuls sur leur demande, une sauvegarde chargée d'assurer l'inviolabilité du domicile consulaire. || Les Agents diplomatiques et Consuls d'Allemagne et réciproquement les Agents diplomatiques et Consuls de l'Empire Persan ne devront pas protéger, ni en secret ni publiquement, aucun sujet persan et réciproquement aucun sujet allemand qui ne serait pas employé effectivement par leurs Missions ou par les Consuls-Généraux, Consuls, Vice-Consuls ou Agents consulaires respectifs. || Il est bien entendu que si un des agents consulaires de l'une des Hautes Parties contractantes s'engageait dans les affaires commerciales sur le territoire de l'autre Puissance, il serait soumis à cet égard aux mêmes lois et aux mêmes usages, auxquels sont soumis leurs nationaux faisant le même commerce.

Art. 4. Les sujets de chacune des Parties contractantes jouiront dans les territoires de l'autre des mêmes droits, privilèges, immunités et exemptions, dont jouissent actuellement ou jouiront à l'avenir en matière de commerce et de navigation les sujets de la nation la plus favorisée.

Art. 5. Les sujets des deux Hautes Parties contractantes pourront parcourir en pleine liberté les territoires respectifs et les traverser pour se rendre dans les pays voisins, sans qu'ils en soient empêchés par les autorités locales qui, de leur côté, mettront la plus vive sollicitude à les préserver de tout désagrément, en veillant continuellement à leur sûreté personnelle, en les traitant avec tous les égards possibles afin qu'ils n'éprouvent ni dommage ni entrave ou vexation quelconque dans leur voyage, et en les munissant à cet effet de sauf-conduits, firmans ou autres documents.

Art. 6. Les sujets des Hautes Parties contractantes qui, en leur qualité de marchands, commerçants ou voyageurs, se rendraient sur les territoires respectifs pour leurs affaires, y seront accueillis et traités dès leur entrée jusqu'à leur sortie, avec les mêmes égards et sur le même pied que les sujets des nations les plus favorisées. || En conséquence les sujets des Hautes Parties contractantes pourront soit par terre soit par mer, librement importer dans les pays respectifs, en exporter ou y transporter des marchandises et exercer le commerce dans toute l'étendue de leurs Etats, conformément aux réglements et aux lois en vigueur dans les pays respectifs, y louer des maisons, des magasins et des boutiques pour leurs affaires, et ils n'y seront soumis, sous aucun nom ou prétexte, à un impôt quelconque auquel ne seraient

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point soumis les sujets des nations les plus favorisées. || Il est bien entendu que si la Haute Cour d'Iran accordait aux sujets d'une nation étrangère le droit d'acquérir et de posséder en Perse des terres, maisons, magasins ou autres immeubles, ce même droit sera aussi accordé aux sujets de l'Empire d'Allemagne. || Les marchands des deux nations qui voudraient faire le commerce intérieur dans les deux pays, seront soumis quant à ce commerce, aux lois du pays où ce commerce se fait.

Art. 7. Les sujets de l'Empire Allemand qui importeraient des marchandises en Perse ou en exporteraient seront traités, à l'égard des droits de douane, sur le même pied que les sujets des nations les plus favorisées. || Pareillement les sujets persans qui importeraient des marchandises en Allemagne ou en exporteraient seront traités à l'égard des droits de douane et impôts sur le même pied que les sujets des nations les plus favorisées.

Art. 8. Il sera permis aux bâtiments de commerce de chacune des Hautes Parties contractantes, soit chargés soit sur lest, de fréquenter librement dans les Etats respectifs, toutes les baies et rivières ainsi que tous les ports, rades et ancrages ouverts par le Gouvernement territorial au commerce maritime. Cette liberté comprendra pour les navires et les sujets des Hautes Parties contractantes la faculté de faire le commerce d'importation et d'exportation dans la même étendue que les navires et les sujets des nations les plus favorisées, ainsi que la faculté de se livrer à toutes les opérations commerciales dont l'exercice est permis, en vertu des lois en vigueur, dans les pays respectifs; les bâtiments de commerce et les sujets respectifs seront en tout point traités à cet égard sur le même pied que les navires et les sujets des nations les plus favorisées.

Art. 9. Les bâtiments de l'une des Hautes Parties contractantes qui arrivent soit sur lest soit chargés de quelque pays que ce soit, dans les ports de l'autre seront traités tant à leur entrée qu'à leur sortie sur le même pied que les bâtiments des nations les plus favorisées par rapport aux droits de port, de tonnage, de fanaux et de pilotage ainsi qu'à tout autre droit ou charge de quelque espèce ou dénomination que ce soit, revenant à la couronne, aux villes ou à des établissements particuliers quelconques.

Art. 10. Relativement aux cas de naufrage les Hautes Parties contractantes s'engagent à prendre les dispositions nécessaires pour qu'il soit voué au sauvetage de leurs navires respectifs échoués sur les côtes de l'une ou de l'autre, ainsi qu'à des personnes et des objets de tout genre, qui se trouveront à leur bord, les mêmes soins qu'en pareille circonstance seraient apportés au sauvetage des bâtiments de la nation la plus favorisée. Elles s'engagent également à veiller à ce que les débris du navire naufragé, les papiers du bord, les espèces, effets, utensiles et autres objets de valeur soient mis sous bonne garde ainsi que cela se pratique à l'égard des navires naufragés des Puissances les plus favorisées, à ce qu'il soit donné connaissance du fait au Gouvernement intéressé par l'organe de son Consul ou Agent com-

mercial le plus rapproché ou par toute autre voie en mettant le tout à sa disposition de la manière la plus convenable et enfin à ce que tous les objets sauvés ou bien le prix de leur vente, dans le cas où celle-ci aurait dû s'effectuer, soient fidèlement remis aux propriétaires ou à leurs fondés de pouvoirs ou bien à défaut des uns et des autres à la charge du Consul ou Agent du Gouvernement intéressé.

Art. 11. Les officiers, employés ou sujets de la Haute Cour d'Iran ne pourront entrer de force dans le domicile d'un Allemand, ni dans ses magasins ou boutiques; en cas de nécessité il faudra en prévenir l'Agent diplomatique ou le Consul duquel cet individu relèvera, et toute perquisition domiciliaire ne pourra se faire qu'en présence des commissaires délégués par ledit Agent ou Consul. Dans les localités où il n'y a pas d'Agent ou Cousul les sujets de l'Empire d'Allemagne seront traités à cet égard sur le même pied que le sont les sujets des nations les plus favorisées dans les endroits où il n'y a pas d'Agent ou Consul de leur Gouvernement.

Art. 12. Tous les contrats et autres engagements des sujets des Hautes Parties contractantes par rapport aux affaires de commerce seront fidèlement maintenus et protégés avec la plus grande exactitude par les Gouvernements respectifs. || Pour mieux veiller à la sûreté des sujets des Etats de l'Empire d'Allemagne en Perse, les billets de créance, lettres de change et lettres de garantie ainsi que tous les contrats faits par des sujets des Hautes Parties contractantes relativement à des affaires de commerce, devront être signés par le Divan-Khané et à défaut de celui-ci par l'autorité locale compétente et, dans les endroits où il y aurait un Consul d'Allemagne, aussi par ce dernier, afin qu'en cas de quelque différend on puisse faire les recherches nécessaires et décider ces affaires litigieuses conformément à la justice. || En conséquence celui qui sans être muni des documents ainsi légalisés voudrait intenter un procès à un sujet allemand en ne produisant d'autres preuves que les déclarations d'un témoin, ne sera point écouté quant à sa demande, à moins que celle-ci ne soit reconnue valable par ledit sujet allemand. || L'Empire d'Allemagne veillera également à la sûreté des sujets persans en Allemagne conformément aux lois et aux usages établis et les traitera à cet égard sur le pied des nations les plus favorisées.

Art. 13. Toutes les contestations ou disputes et tous les procès qui s'élèveraient entre des Allemands en Perse seront examinés et jugés par les Représentants respectifs près la Haute Cour d'Iran ou par les Consuls desquels ils relèveront, ou les plus rapprochés de leur domicile conformément aux lois de leur pays sans que l'autorité locale y puisse opposer le moindre empêchement ou la moindre difficulté. || Les procès, contestations et disputes qui s'élèveraient en Perse entre des Allemands et des sujets appartenant à d'autres nations étrangères seront jugés exclusivement par l'intermédiaire de leurs Agents ou Consuls. || Toutes les contestations ou disputes et tous les procès qui s'élèveraient en Perse entre les sujets des deux Hautes Parties

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contractantes seront jugés devant les tribunaux persans, mais ces différends et procès ne pourront être décidés ou jugés qu'en présence et avec l'intervention du Représentant ou du Consul Allemand, ou, au nom de celui-ci, en présence du Drogman qui en sera employé à cet effet, le tout conformément aux lois et aux coutumes du pays. || Le procès une fois terminé par la sentence du juge compétent ne pourra plus être repris une seconde fois, mais si la nécessité exigeait la révision du jugement prononcé, celle-ci ne pourra se faire qu'avec l'avis du Représentant ou Consul duquel les sujets allemands, dont il s'agira, relèvent ou au nom de cet agent en présence du Drogman respectif, et seulement devant une des Cours suprêmes de contrôle et de cassation qui siégent à Téhéran, à Tauris ou à Ispahan. || En réciprocité de ces engagements les sujets de la Haute Cour d'Iran jouiront dans les Etats de l'Empire d'Allemagne pour leurs intérêts et leurs droits acquis, en cas de contestations, de la pleine protection des lois et des tribunaux de ces Etats, de la même manière que les sujets nationaux et ceux d'autres puissances étrangères; et les Représentants, Consuls et Agents de la Haute Cour d'Iran y jouiront, quant à une intervention de leur part en faveur de leurs nationaux auprès des autorités de ces Etats, de la faculté qui y est accordée aux Agents diplomatiques et Consuls des nations les plus favorisées.

Art. 14. Si un sujet de l'une des deux Hautes Parties contractantes résidant dans les domaines de l'autre, se déclare en état de faillite ou fait banqueroute, on dressera l'inventaire de tous ses biens, de ses effets et de ses comptes actifs et passifs pour en faire la liquidation requise et la juste répartition entre ses créanciers. || En cas qu'un Allemand résidant ou se trouvant en Perse se déclare en état de faillite, la procédure susmentionnée ne sera effectuée que de l'avis et par l'intervention du Représentant ou Consul respectif, résidant à l'endroit le plus rapproché du lieu de séjour du banqueroutier. || Si un sujet persan fait faillite en Allemagne il sera accordé dans la procédure de faillite au Représentant ou Consul Persan le même droit d'intervention dont jouissent en pareil cas les Représentants ou Consuls de la nation la plus favorisée. || Sur la demande faite par les créanciers, les Agents diplomatiques ou consulaires respectifs des Puissances contractantes provoqueront les recherches nécessaires pour constater si le failli n'a pas laissé dans sa patrie des biens qui pourraient satisfaire à leurs réclamations.

Art. 15. En cas de décès de l'un de leurs sujets respectifs sur le territoire de l'une ou de l'autre des Hautes Parties contractantes, sa succession sera remise intégralement à la famille ou aux associés du défunt, s'il en a. Si le défunt n'avait ni parents ni associés, sa succession dans les pays des Hautes Parties contractantes, sera remise intégralement à la garde des Agents ou des Consuls respectifs, pour que ceux-ci en fassent l'usage convenable conformément aux lois et coutumes de leur pays.

Art. 16. Quant aux affaires de la juridiction criminelle, dans lesquelles seraient compromis des sujets allemands en Perse ou des sujets persans en

Allemagne elles seront jugées dans les états respectifs suivant le mode qui y est adopté à l'égard de la nation la plus favorisée.

Art. 17. Le Gouvernement Impérial d'Allemagne s'engage à n'accorder à aucun sujet persan des lettres de naturalisation qu'à la condition expresse du consentement préalable du Gouvernement Persan; le Gouvernement Persan s'engage aussi de son côté à n'accorder des lettres de naturalisation à aucun sujet du dit Empire Allemand sans le consentement préalable du Gouvernement de celui-ci.

Art. 18. En cas de guerre de l'une des Puissances contractantes avec une autre Puissance, il ne sera porté pour cette seule cause, atteinte, préjudice ou altération à la bonne intelligence et à l'amitié sincère qui doivent exister à jamais entre les Hautes Puissances contractantes. Pour le cas où la Perse serait impliquée dans un différend avec une autre Puissance, le Gouvernement d'Allemagne se déclare prêt à employer, sur la demande du Gouvernement de Sa Majesté Impériale le Shah ses bons offices pour contribuer à applanir le différend.

Art. 19. Le présent Traité restera en vigueur à dater du jour de sa signature jusqu'à l'expiration de douze mois après que l'une des Hautes Parties contractantes aura annoncé à l'autre l'intention d'en faire cesser les effets. || Toutefois les deux Hautes Parties contractantes se réservent la faculté d'introduire, d'un commun accord dans le présent Traité toutes modifications qui ne seraient point en opposition avec son esprit ou ses principes et dont l'utilité serait démontrée par l'expérience.

Art. 20. Les dispositions du présent traité sont applicables également au Grand Duché de Luxembourg, tant qu'il sera compris dans le système de douane et d'impôts allemands.

Art. 21. Les gouverneurs, commandants, douaniers, officiers et autres employés des Hautes Puissances contractantes seront chargés de remplir les stipulations de ce Traité avec toute l'exactitude possible et sans y porter la moindre atteinte. || Le présent Traité sera ratifié et les ratifications en seront échangées à St. Pétersbourg dans l'espace de trois mois ou plus tôt si faire se peut. || En foi de quoi, les Plénipotentiaires respectifs des Hautes Parties contractantes ont signé le présent Traité et y ont apposé le sceau de leurs armes. || Fait à St. Pétersbourg ce 11 juin 1873 en quatre expéditions dont deux en Français et deux en Persan. || Le 15 rabi-oul-Sani l'an 1290 de l'hégire.

H. VII. P. Reuss.
(L. S.)

Abdulrahim.
(L. S.)

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Un traité d'amité, de commerce et de navigation ayant été conclu à St. Pétersbourg entre Sa Majesté l'Empereur d'Allemagne, Roi de Prusse, d'une part, et Sa Majesté l'Empereur de Perse, d'autre part, traité dont l'article 19 porte:

Le présent Traité restera en vigueur à dater du jour de sa signature jusqu'à l'expiration de douze mois après que l'une des Hautes Parties contractantes aura annoncé à l'autre l'intention d'en faire cesser les effets.

Toutefois les deux Hautes Parties contractantes se reservent la faculté d'introduire, d'un commun accord dans le présent traité toutes modifications qui ne seraient point en opposition avec son esprit ou ses principes et dont l'utilité serait démontrée par l'expérience.

et les Hautes Parties contractantes ayant l'intention de donner à ce traité une durée de dix ans au moins, les Soussignés sont convenus à déclarer que leurs Gouvernements respectifs s'engagent à ne pas exercer le droit de dénoncer le traité susmentionné pendant les dix ans qui suivront l'échange des ratifications de ce traité. || En foi de quoi les Soussignés ont dressé le présent Acte additionnel dont les ratifications seront échangées en même temps, que les ratifications du traité précité et l'ont signé en double expédition. || Fait à Berlin le six Juin mil huit cent soixante-treize.

de Bismarck.

Mirza Houssein Khan.

Der vorstehende Vertrag und die zusätzliche Uebereinkunft sind ratifizirt und die Ratifikations-Urkunden ausgewechselt worden.

Nr. 5054.

PREUSSEN. — Thronrede des Königs bei Eröffnung des Landtags am 27. November 1871.

Nr. 5054. Preussen. 27. Nov. 1871.

Erlauchte, edle und geehrte Herren von beiden Häusern des Landtags!

Indem Ich zum ersten Mal nach den grossen Ereignissen der jüngsten Vergangenheit den Landtag der Monarchie wieder selbst begrüsse, darf Ich vor Allem der hohen Genugthuung darüber Ausdruck geben, dass an den Ehren und Erfolgen dieser denkwürdigen Zeit dem preussischen Volke ein so hervorragender Antheil zugefallen ist; die Wehrkraft Preussens, deren Aus-

bildung Ich seit dem Beginn Meiner Regierung als eine der höchsten Aufgaben Meines königlichen Berufs erkannt habe, sowie der altpreussische Geist sittlicher Zucht, fester Treue und patriotischer Hingebung haben eine glänzende Probe bestanden; es drängt Mich, Meinem Volke vor seinen Vertretern nochmals Meinen freudigen Dank für seine erhebende Haltung auszusprechen. || Während dem neu erstandenen deutschen Reich, dessen Kaiserwürde mit Meiner und Meiner Nachfolger Krone verbunden ist, fortan die Pflege der nationalen Macht und Sicherheit zufällt, wird sich die Vertretung des preussischen Volks in Gemeinschaft mit Meiner Regierung um so zuversichtlicher der heilsamen Ausbildung der inneren Einrichtungen der Monarchie widmen können. || Aus dem Entwurf zum Staatshaushalts-Etat für 1872 werden Sie ersehen, dass die Finanzlage Preussens, ungeachtet der Opfer, welche der gewaltige Krieg erheischt, eine in hohem Grade befriedigende ist. Die Schwierigkeiten, mit welchen die Finanzverwaltung vor einigen Jahren zu kämpfen hatte, sind bereits im Jahre 1870 überwunden worden; einer weiteren glücklichen Entwickelung geht die Finanzlage unter der Einwirkung der Kriegserfolge entgegen. || Die durch Reichsgesetz angeordnete Bildung eines Reichskriegsschatzes überhebt Preussen der Nothwendigkeit, noch ferner einen Staatsschatz zu unterhalten; es werden Ihnen Gesetzentwürfe zugehen, wonach der hierdurch verfügbar werdende Bestand des Staatsschatzes sowie einige ausserordentliche Einnahmen zur Tilgung von Staatsschulden verwendet werden sollen. || Die in solcher Weise für den Staatshaushalt erwachsende Entlastung, ferner die mit dem lebhaften Aufschwunge des Verkehrs Hand in Hand gehende Steigerung der Erträge aus wichtigen Einnahmequellen des Staats, endlich das Vorhandensein eines erheblichen Ueberschusses aus dem abgelaufenen Finanzjahre werden es möglich machen, im Jahre 1872 den Bedürfnissen auf allen Gebieten der Staatsverwaltung in weitem Umfange gerecht zu werden. || Vorzugsweise hat Meine Regierung der Thatsache ihre Aufmerksamkeit zuwenden müssen, dass die Besoldungen der Staatsbeamten in ein von Jahr zu Jahr steigendes Missverhältniss zu den Anforderungen getreten sind, welche bei dem Stande aller Preisverhältnisse die Befriedigung der Bedürfnisse des Lebens und der Stellung an sie richtet; es wird Ihnen der Plan zu einer umfassenden Erhöhung der Beamten-Besoldungen vorgelegt werden; Ich vertraue, dass Sie bereit sein werden, durch Bewilligung der dazu nöthigen Mittel einem Zustande Abhülfe zu schaffen, aus dessen Fortdauer ernste Gefahren und Schäden für die Staatsverwaltung entstehen müssten. || Sie werden Vorlagen erhalten, welche bei einzelnen Steuern Erleichterungen herbeizuführen bestimmt sind und es wird Ihnen ein Gesetzentwurf zugehen, durch welchen die Einrichtungen und die Befugnisse der Ober-Rechnungskammer gesetzlich geregelt werden sollen. || Der nach dem Abschlusse des Friedens eingetretene, überaus lebhafte Aufschwung des Handels und der Gewerbe erheischt die Herstellung neuer Verkehrswege, insbesondere eine weitere Ausbildung der Eisenbahnen. Der Bau einiger als

Nr. 5054. Preussen. 27. Nov. 1871.

nothwendig erkannten Bahnen für Rechnung des Staates und eine Vermehrung des Betriebsmaterials auf den Staatsbahnen ist in Aussicht genommen, ebenso die Gewährung reichlicher Mittel für Land- und Wasserwege und für Landes-Meliorationen aller Art. Wiederholt werden Ihnen Vorlagen über den Erwerb des Grundeigenthums und über das Hypothekenrecht gemacht werden; nachdem die Finanzlage es gestattet hat, die Kostensätze für die Geschäfte bei dem Grundbuche zu ermässigen, ist zu hoffen, dass es jetzt gelingen werde, diese wichtige, seit langer Zeit angestrebte Reform nunmehr zum Abschluss zu bringen. || Die Aufgaben der inneren Verwaltungsreform werden erneut den Gegenstand Ihrer Berathungen bilden, es wird Ihnen der Entwurf einer Kreisordnung für die östlichen Provinzen, nachdem derselbe mit Rücksicht auf die früheren Erörterungen in mehreren Theilen Abänderungen und Ergänzungen erhalten hat, wieder vorgelegt werden. Meine Regierung giebt sich der Hoffnung hin, dass es dem gemeinsamen ernsten Willen gelingen werde, über das wichtige Organisationsgesetz, welches zugleich die Grundlagen weiterer Reformen enthält, zur Verständigung zu gelangen. || Inzwischen ist die communale Selbstverwaltung der Provinzen in einer erfreulich fortschreitenden Entwickelung begriffen; die zur Führung einer einheitlichen Verwaltung der provinziellen Angelegenheiten geeigneten Organe sind auf Grund der bestehenden Gesetze bereits in der Mehrzahl der Provinzen geschaffen. || Gegenüber den Bewegungen, welche auf dem Gebiete der Kirche stattgefunden haben, hält Meine Regierung daran fest, der Staatsgewalt ihre volle Selbstständigkeit in Bezug auf die Handhabung des Rechts und der bürgerlichen Ordnung zu wahren, und zugleich neben der berechtigten Selbstständigkeit der Kirchen und Religions-Gesellschaften die Glaubens- und Gewissensfreiheit der Einzelnen zu schützen. Behufs verfassungsmässiger Durchführung dieser Grundsätze werden Ihnen besondere Vorlagen zugehen, welche die Eheschliessung, die Regelung der Civilstands-Verhältnisse und die rechtlichen Wirkungen des Austritts aus der Kirche zum Gegenstande haben. || Einen Gesetzentwurf, betreffend die Aufbringung der Synodalkosten, empfehle Ich Ihrer Aufmerksamkeit um so mehr, als der Staat der evangelischen Kirche noch immer die Ausführung des Art. XV. der Verfassungs-Urkunde verbunden mit den dazu nöthigen Einrichtungen schuldet und dieses Gesetz nur eine nothwendige Vorbedingung dazu ist. || Auf dem Gebiete des öffentlichen Unterrichts wird die Verwendung sehr beträchtlicher Mittel in Anspruch genommen, um viele bisher zurückgestellte Bedürfnisse nunmehr zu befriedigen. Die von der Verfassungsurkunde geforderte Vorlage eines allgemeinen Unterrichtsgesetzes wird auch in dieser Session erneuert werden, nachdem die bei den früheren Berathungen stattgehabten Erwägungen und Erfahrungen der letzten Jahre bei der Revision des Entwurfs eingehende Berücksichtigung gefunden haben. Ein Specialgesetz über die Beaufsichtigung der Schulen bezweckt die beschleunigte Abhülfe eines als vorzugsweise dringend erkannten Bedürfnisses. || Meine Herren! Die Aufgaben, welche Ihrer harren, sind umfassend und von Be-

deutung für die Entwickelung unserer inneren Zustände, Ihre Arbeiten werden segensreich sein, wenn sie von dem Geiste des Vertrauens und willigen Zusammenwirkens geleitet werden, welcher Mein Volk in der jüngsten grossen Zeit erfüllt hat!

Nr. 5054. Preussen. 27. Nov. 1871.

Nr. 5055.

PREUSSEN. — Thronrede, verlesen bei Eröffnung des Landtags von dem stellvertretenden Vorsitzenden des Staatsministeriums, Kriegsminister Grafen von Roon, am 12. November 1872.*)

Nr. 5055. Preussen. 12. Nov. 1872.

Erlauchte, edle und geehrte Herren von beiden Häusern des Landtages!

Seine Majestät der Kaiser und König haben mich zu beauftragen geruht, den Landtag der Monarchie in Allerhöchst Ihrem Namen zu eröffnen. || Da die Hoffnung gescheitert ist, die Reform der Kreis-Verfassungen, nach Wiederaufnahme der im Juni vertagten Session, zum Abschlusse zu bringen, hat die Regierung Sr. Majestät es für geboten erachtet, die in dieser Beziehung fruchtlos gebliebene Session zu schliessen, um in einer neuen jene wichtige und dringende Aufgabe zur Lösung zu bringen und Ihnen neben denjenigen Gesetz-Entwürfen, welche Ihnen bereits in der eben verflossenen Session zugegangen sind, andere gesetzgeberische Aufgaben von Bedeutung zu unterbreiten. || Sie wissen bereits aus der früheren Vorlage des Staatshaushalts-Etats für 1873, dass die Finanzlage Preussens eine durchaus befriedigende ist, dass nicht allein die Mittel vorhanden sind, um den auf dem Gebiete der gesammten Staatsverwaltung hervorgetretenen Ausgabe-Bedürfnissen in weitem Umfange gerecht zu werden, sondern auch um erhebliche Summen zur Bildung von Provinzialfonds, zur Gewährung von Wohnungsgelderzuschüssen an Staatsbeamte und zur ausserordentlichen Tilgung von Staatsschulden zur Verfügung zu stellen. || Zugleich gestattet die Finanzlage an der Absicht festzuhalten, den weniger wohlhabenden Einwohnerklassen eine umfassende Steuererleichterung zu Theil werden zu lassen: ein Gesetzentwurf wegen Abänderung des Gesetzes vom 1. Mai 1851, betreffend die Einführung einer Klassen- und klassifizirten Einkommensteuer, wird Ihnen unverzüglich zugehen. || Es werden

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*) Nachdem am 31. October 1872 das Herrenhaus in namentlicher Abstimmung mit 145 gegen 18 Stimmen die Kreisordnungs-Vorlage abgelehnt hatte, war am 1. November der Landtag durch königliche Verordnung geschlossen und gleichzeitig zu der neuen Session einberufen worden. Am 30. November erfolgte darauf die Berufung von 24 neuen Mitgliedern des Herrenhauses aus Allerhöchstem Vertrauen.

Anm. d. Red.

Nr. 5055. Preussen. 12. Nov. 1872.

Ihnen Vorlagen gemacht werden, welche bestimmt sind, die Beziehungen des Staates zu den Religionsgesellschaften nach verschiedenen Richtungen hin klar zu stellen. || Vor Allem werden Sie wiederum mit der Umgestaltung der bisherigen Kreiseinrichtungen befasst werden. || Die Regierung Sr. Majestät ist fest durchdrungen von der Nothwendigkeit, die Reform, deren Ausführung durch Bereitstellung der dazu erforderlichen Geldmittel erleichtert wird, als Grundlage der Lösung mannigfacher anderer Aufgaben des Staates ins Leben zu rufen. || Es wird Ihnen ein Entwurf der Kreisordnung vorgelegt werden, in welchem unter Festhaltung der wesentlichen Grundlagen des früheren Entwurfs eine Reihe von solchen Veränderungen vorgeschlagen ist, deren Nothwendigkeit oder Zweckmässigkeit sich aus den bisher stattgefundenen eingehenden Berathungen ergeben hat. || Die Regierung Sr. Majestät hofft zuversichtlich, eine allseitige Vereinbarung über diesen Entwurf zu erreichen und ist entschlossen, die Durchführung der bedeutsamen Aufgabe durch alle Mittel, welche die Verfassung der Monarchie an die Hand giebt, zu sichern. || Im Namen Seiner Majestät des Kaisers und Königs erkläre ich den Landtag der Monarchie für eröffnet.

Nr. 5056.

PREUSSEN. — Thronrede beim Schluss des Landtags, verlesen vom Präsidenten des Staatsministeriums, Grafen von Roon, am 20. Mai 1873.

Nr. 5056. Preussen. 20. Mai 1873.

„Erlauchte, edle und geehrte Herren von beiden Häusern des Landtages!

Mit dem von Sr. Majestät dem Kaiser und Könige befohlenen Schlusse des Landtages der Monarchie erreicht die gegenwärtige Session ihr Ende. || Wir können auf dieselbe mit grosser Genugthuung blicken. || Reich an mühsamer Arbeit, aber auch an werthvollen Resultaten auf fast allen Gebieten der Gesetzgebung nimmt sie einen hervorragenden Platz in der Reihe der Sessionen des preussischen Landtages ein. || Die Reform der inneren Verwaltung, seit Jahren erstrebt, aber durch tiefgehende Meinungskämpfe aufgehalten, ist in ihrem ersten und grundlegenden Theile zum Abschlusse gelangt. Schon jetzt scheint sich die Erwartung zu erfüllen, dass bei der Ausführung derselben die zuvor streitenden Kräfte gemeinsam und patriotisch Hand anlegen werden, um das Werk segenbringend für das Land zu gestalten. || Nicht minder lebhafte Kämpfe haben die Berathung der wichtigen Gesetze begleitet, durch welche die Beziehungen des Staates zu den grossen Kirchengemeinschaften klarer und fester als bisher geregelt worden sind. Die Regierung

Sr. Majestät beharrt in dem festen Vertrauen, dass diese Gesetze den wahren Frieden unter den Angehörigen der verschiedenen Bekenntnisse fördern und die Kirche dahin führen werden, dem lauteren Dienste des göttlichen Wortes allein ihre Kräfte zu weihen. ‖ Dank der glücklichen Finanzlage des Staates und der Bereitwilligkeit der Häuser des Landtages ist durch den Staatshaushaltsetat den Bedürfnissen der Bevölkerung und der Verwaltung nach allen Seiten hin reichere Befriedigung als seither gewährt worden. Die Gesetze über die Umgestaltung der Classensteuer, die anderweite Regelung der Erbschaftssteuer und die Aufhebung oder Ermässigung gewisser Stempelabgaben werden neben einer beträchtlichen Erleichterung, namentlich der weniger bemittelten Bevölkerungsschichten, eine gerechtere Vertheilung der Steuerlast sichern. ‖ Durch die erhebliche Verbesserung der Lage der Staatsbeamten gewinnt die erspriessliche Entwickelung des Staatswesens eine erneute Bürgschaft. ‖ Die von Ihnen der Staatsregierung ertheilte Ermächtigung zur Ausführung einer umfassenden Erweiterung des Eisenbahnnetzes wird dem in erfreulichem Aufschwung begriffenen Verkehrsleben und der Vertheidigungsfähigkeit des Landes in allen seinen Theilen zu Statten kommen. ‖ Meine Herren, die gegenwärtige Session ist voraussichtlich die letzte einer Legislaturperiode, welche inmitten einer denkwürdigen, für Preussen und Deutschland hoch bedeutungsvollen Zeit begann und welcher es vorbehalten war, die Erfolge und Früchte jener Epoche auch für die besonderen Aufgaben der preussischen Monarchie zu verwerthen. Wenn die Arbeiten dieser Legislatur auf allen Gebieten der Gesetzgebung einen erfolgreichen Verlauf gehabt haben, so ist dies vor Allem dem Geist des vertrauensvollen Zusammenwirkens zwischen Staatsregierung und Landesvertretung zu danken, welcher durch die erhebenden Ereignisse jener gewaltigen Zeit mächtig belebt und gestärkt worden ist. ‖ Je erfreulicher die Früchte sind, welche das Walten dieses Geistes in der nunmehr beendigten Legislaturperiode gebracht hat, desto berechtigter ist die Hoffnung, dass das preussische Volk bei den bevorstehenden Wahlen der künftigen Landesvertretung sich von demselben patriotischen Sinne leiten lassen werde, von dem Sinne fester und vertrauensvoller Gemeinschaft mit der Regierung Sr. Majestät zur allseitigen Förderung des wahren Wohls und Gedeihens unseres Vaterlandes. ‖ Im allerhöchsten Auftrage Sr. Majestät des Kaisers, unseres allergnädigsten Königs und Herrn, erkläre ich die Session des Landtages der Monarchie für geschlossen.“

Nr. 5057.

GROSSBRITANNIEN. — Thronrede der Königin bei Eröffnung des Parlaments, am 6. Februar 1873.

Nr. 5057. Gross-britannien. 6. Febr. 1873.

My Lords and Gentlemen,

I greet you cordially on your reassembling for the discharge of your momentous duties. ‖ I have the satisfaction of maintaining relations of friendship with Foreign Powers throughout the world. ‖ You were informed when I last addressed you that steps had been taken to prepare the way for dealing more effectually with the Slave Trade on the East Coast of Africa. I have now despatched an Envoy to Zanzibar, furnished with such instructions as appear to me best adapted for the attainment of the object in view. He has recently reached the place of his destination, and has entered into communication with the Sultan. ‖ My ally, the German Emperor, who had undertaken to pronounce judgment as Arbiter on the line of water-boundary so long in dispute under the terms of the Treaty of 1846, has decided, in conformity with the contention of the Government of the United States, that the Haro Channel presents the line most in accordance with the true interpretation of that Treaty. ‖ I have thought it the course most befitting the spirit of international friendship and the dignity of the country to give immediate execution to the award by withdrawing promptly from my partial occupation of the Island of San Juan. ‖ The proceedings before the Tribunal of Arbitration at Geneva, which I was enabled to prosecute in consequence of the exclusion of the Indirect Claims preferred on behalf of the Government of the United States, terminated in an award which in part established and in part repelled the claims allowed to be relevant You will in due course be asked to provide for the payment of the sum coming due to the United States under this award. ‖ My acknowlegments are due to the German Emperor, and likewise to the Tribunal at Geneva, for the pains and care bestowed by them on the peaceful adjustment of controversies such as could not but impede the full prevalence of national goodwill in a case where it was especially to be cherished. ‖ In further prosecution of a well understood and established policy, I have concluded a Treaty for the Extradition of Criminals with my ally the King of the Belgians. ‖ The Government of France has, during the recess, renewed its communications with my Government for the purpose of concluding a Commercial Treaty to replace that of 1860, which is about to expire. In prosecuting these communications, I have kept in view the double object of an equitable regard to existing circumstances, and of securing a general provision more permanent in its character, and resting on a reciprocal and equal basis, for the commercial and maritime transactions of the two countries. I hope to be enabled, within a short

period, to announce to you the final result. || It has been for some years felt by the Governments of Russia and the United Kingdom respectively, that it would be conducive to the tranquillity of Central Asia if the two Governments should arive at an identity of view regarding the line which describes the northern frontier of the dominions of Afghanistan. Accordingly a correspondence has passed, of which this is the main subject. Its tenour, no less than its object, will, I trust, be approved by the public opinion of both nations. || Papers will be laid before you with relation to the awards delivered under the Treaty of Washington, to the commercial negotiations with France, and to the northern frontier of the dominions of Afghanistan.

Gentlemen of the House of Commons,

The estimates of the coming financial year will be presented to you. They have been framed with a view to the efficiency and moderation of our establishments, under circumstances of inconvenience entailed by variations of an exceptional nature in the prices of some important commodities.

My Lords and Gentlemen,

Although the harvest has been to some extent deficient, the condition of the three Kingdoms with reference to Trade and Commerce, to the sufficiency of the Revenue for meeting the public charge, to the decrease of pauperism, and to the relative amount of ordinary crime, may be pronounced generally satisfactory. || A measure will be submitted to you on an early day for settling the question of University Education in Ireland. It will have for its object the advancement of learning in that portion of my dominions, and will be framed with a careful regard to the rights of conscience. || You will find ample occupation in dealing with other legislative subjects of importance, which, for the most part, have already been under your notice in various forms and at different periods. Among these your attention will speedily be asked to the formation of a Supreme Court of Judicature, including provisions for the trial of Appeals. || Among the measures which will be brought before you there will also be proposals for facilitating the Transfer of Land, and for the amendment of our system of Local Taxation, of certain provisions of the Education Act of 1870, and of the General Acts regulating Railways and Canals; together with various other Bills for the improvement of the Law. || I earnestly commend your deliberations, to the guidance and favour of Almighty God.

Nr. 5058.

RÖMISCHE CURIE. — Der Papst an Se. M. den Kaiser von Deutschland, König von Preussen. —

Nr. 5058. Röm. Curie. 7. Aug. 1873.

Maestà, — Tutte le disposizioni che si prendono da qualche tempo dal Governo di Vostra Maestà mirano sempre più alla distruzzione del Cattolicismo. E mentre rifletto meco stesso alle cause che possono aver dato luogo a queste durissime misure, confesso di non trovarne nessuna. D'altronde mi si dice che V. M. non approvi la condotta del suo Governo, e non lodi la severità delle misure contro la Religione Cattolica. Ma se è vero che V. M. non approva, e le lettere ch'Ella ha scritto nel tempo passato, proverebbero a sufficenza ch'Ella non può approvare quanto ora si sta facendo; se V. M., dissi, non approva, come poi si prosegue dal suo governo nel cammino intrapreso che moltiplica le misure di rigore contro la Religione di G. Cristo, che mentre recano tanto pregiudizio alla medesima, si assecuri Maestà che non fanno altro che minare il Trono della stessa, Maestà Vostra? Parlo con franchezza, giacchè la verità è la mia bandiera, e parlo per esaurire un mio dovere il quale m'impone di dire a tutti il vero, e anche a chi non è Cattolico, giacchè chiunque è battezzato appartiene in qualche parte, e in qualche modo che non è qui luogo a spiegare, appartiene, dissi, al Papa. Sono persuaso che la V. M. accoglierà con l'usata sua cortesia le mie riflessioni, e prenderà quelle misure che nel caso si richiedono, mentre con pienezza di osservanza ed ossequio prego Iddio a unirlo meco coi vincoli della stessa carità.

Dal Vaticano
7 Agosto 1873.

Pio P. M.

[Uebersetzung.*)]

Nr. 5058. Röm. Curie. 7. Aug. 1873.

Majestät, — Sämmtliche Massregeln, welche seit einiger Zeit von Eurer Majestät Regierung ergriffen worden sind, zielen mehr und mehr auf die Vernichtung des Katholicismus ab. Wenn ich mit mir selber darüber zu Rathe gehe, welche Ursachen diese sehr harten Massregeln veranlasst haben mögen, so bekenne ich, dass ich keine Gründe aufzufinden im Stande bin. Andererseits wird mir mitgetheilt, dass Eure Majestät das Verfahren Ihrer Regierung nicht billigen und die Härte der Massregeln wider die katholische Religion nicht gutheissen. Wenn es aber wahr ist, dass Eure Majestät es nicht billigen, — und die Schreiben, welche Allerhöchstdieselben früher an mich gerichtet haben, dürften zur Genüge darthun, dass Sie dasjenige, was gegenwärtig vorgeht, nicht billigen können, — wenn, sage ich, Eure Majestät es nicht billigen, dass Ihre Regierung auf den eingeschlagenen Bahnen fortfährt, die rigorosen Massregeln gegen die Religion Jesu Christi immer weiter auszudehnen, und letztere hierdurch so schwer schädigt, werden dann Eure Majestät nicht die Ueberzeugung gewinnen, dass diese Massregeln keine andere Wirkung haben, als diejenige, den eigenen Thron Eurer Majestät zu untergraben? Ich rede mit Freimuth, denn mein Panier ist Wahrheit, und ich rede, um eine meiner Pflichten zu erfüllen, welche darin besteht, Allen die Wahrheit zu sagen, auch denen, die nicht Katholiken sind. Denn Jeder, welcher die Taufe empfangen hat, gehört in irgend einer Beziehung oder auf irgend eine Weise, welche hier näher darzulegen nicht der Ort ist, gehört, sage ich, dem Papste an. Ich gebe mich der Ueberzeugung hin, dass Eure Majestät meine Betrachtungen mit der gewohnten Güte aufnehmen und die in dem vorliegenden Falle erforderlichen Massregeln treffen werden.

Indem ich Allerhöchstdenselben den Ausdruck meiner Ergebenheit und Verehrung darbringe, bitte ich Gott, dass Er Eure Majestät und mich mit den Banden der gleichen Barmherzigkeit umfassen möge.

Im Vatican, den 7. August 1873.

Pio P. M.

Nr. 5059.

PREUSSEN. — S. M. der Kaiser von Deutschland, König von Preussen an den Papst.

Berlin, den 3. September 1873.

Nr. 5059. Preussen. 3. Sept. 1873.

Ich bin erfreut, dass Eure Heiligkeit Mir, wie in früheren Zeiten, die Ehre erweisen, Mir zu schreiben; Ich bin es umsomehr, als Mir dadurch die

*) Veröffentlicht im Deutschen Reichs-Anzeiger vom 14. October 1873.

Nr. 5059. Preussen. 3. Sept. 1873.

Gelegenheit zu Theil wird, Irrthümer zu berichtigen, welche nach Inhalt des Schreibens Eurer Heiligkeit vom 7. August in den Ihnen über deutsche Verhältnisse zugegangenen Meldungen vorgekommen sein müssen. Wenn die Berichte, welche Eurer Heiligkeit über deutsche Verhältnisse erstattet werden, nur Wahrheit meldeten, so wäre es nicht möglich, dass Eure Heiligkeit der Vermuthung Raum geben könnten, dass Meine Regierung Bahnen einschlüge, welche Ich nicht billigte. Nach der Verfassung Meiner Staaten kann ein solcher Fall nicht eintreten, da die Gesetze und Regierungsmassregeln in Preussen Meiner landesherrlichen Zustimmung bedürfen.

Zu Meinem tiefen Schmerze hat ein Theil Meiner katholischen Unterthanen seit zwei Jahren eine politische Partei organisirt, welche den in Preussen seit Jahrhunderten bestehenden konfessionellen Frieden durch staatsfeindliche Umtriebe zu stören sucht. Leider haben höhere katholische Geistliche diese Bewegung nicht nur gebilligt, sondern sich ihr bis zur offenen Auflehnung gegen die bestehenden Landesgesetze angeschlossen.

Der Wahrnehmung Eurer Heiligkeit wird nicht entgangen sein, dass ähnliche Erscheinungen sich gegenwärtig in der Mehrzahl der europäischen und in einigen überseeischen Staaten wiederholen.

Es ist nicht Meine Aufgabe, die Ursachen zu untersuchen, durch welche Priester und Gläubige einer der christlichen Konfessionen bewogen werden können, den Feinden jeder staatlichen Ordnung in Bekämpfung der letzteren behülflich zu sein; wohl aber ist es Meine Aufgabe, in den Staaten, deren Regierung Mir von Gott anvertraut ist, den inneren Frieden zu schützen und das Ansehen der Gesetze zu wahren. Ich bin Mir bewusst, dass Ich über Erfüllung dieser Meiner Königlichen Pflicht Gott Rechenschaft schuldig bin, und Ich werde Ordnung und Gesetz in Meinen Staaten jeder Anfechtung gegenüber aufrecht halten, so lange Gott Mir die Macht dazu verleiht; Ich bin als christlicher Monarch dazu verpflichtet auch da, wo Ich zu Meinem Schmerz diesen Königlichen Beruf gegen die Diener einer Kirche zu erfüllen habe, von der Ich annehme, dass sie nicht minder, wie die evangelische Kirche, das Gebot des Gehorsams gegen die weltliche Obrigkeit als einen Ausfluss des uns geoffenbarten göttlichen Willens erkennt.

Zu Meinem Bedauern verleugnen Viele der Eurer Heiligkeit unterworfenen Geistlichen in Preussen die christliche Lehre in dieser Richtung und setzen Meine Regierung in die Nothwendigkeit, gestützt auf die grosse Mehrzahl Meiner treuen katholischen und evangelischen Unterthanen, die Befolgung der Landesgesetze durch weltliche Mittel zu erzwingen.

Ich gebe Mich gern der Hoffnung hin, dass Eure Heiligkeit, wenn von der wahren Lage der Dinge unterrichtet, Ihre Autorität werden anwenden wollen, um der unter bedauerlicher Entstellung der Wahrheit und unter Missbrauch des priesterlichen Ansehens betriebenen Agitation ein Ende zu machen. Die Religion Jesu Christi hat, wie Ich Eurer Heiligkeit vor Gott bezeuge, mit diesen Umtrieben nichts zu thun, auch nicht die Wahrheit,

zu deren von Eurer Heiligkeit angerufenem Panier Ich Mich rückhaltlos bekenne.

Noch eine Aeusserung in dem Schreiben Eurer Heiligkeit kann Ich nicht ohne Widerspruch übergehen, wenn sie auch nicht auf irrigen Berichterstattungen, sondern auf Eurer Heiligkeit Glauben beruht, die Aeusserung nämlich, dass Jeder, der die Taufe empfangen hat, dem Papste angehöre. Der evangelische Glaube, zu dem Ich Mich, wie Eurer Heiligkeit bekannt sein muss, gleich Meinen Vorfahren und mit der Mehrheit Meiner Unterthanen bekenne, gestattet uns nicht, in dem Verhältniss zu Gott einen anderen Vermittler als unseren Herrn Jesum Christum anzunehmen.

Diese Verschiedenheit des Glaubens hält Mich nicht ab, mit Denen, welche den unseren nicht theilen, in Frieden zu leben und Eurer Heiligkeit den Ausdruck Meiner persönlichen Ergebenheit und Verehrung darzubringen.

Wilhelm.

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La Marmora's Buch.

Spanischer Intransigenten-Aufstand und das Verhalten der fremden Flotten dabei.

II. Inhaltsverzeichniss,

nach den Ursprungsländern der Actenstücke alphabetisch geordnet.

Italien.



Zur gefälligen Kenntnissnahme.

Im Folgenden veröffentlichen wir das 1. Heft des 26. Bandes des Staats-Archivs, enthaltend die **Actenstücke zum Streit über die Glaubwürdigkeit des La Marmora'schen Buches.** Die Wichtigkeit des Gegenstandes veranlasst uns mit der Ausgabe des 26. Bandes nicht zu warten, bis der noch restirende vierundzwanzigste erschienen ist. Ein sehr grosses noch im Wachsen begriffenes Material verzögerte bisher dessen Publication, doch können wir sie jetzt mit Bestimmtheit neben der des 26. Bandes in Aussicht stellen. Die erschöpfende Vollständigkeit, in welcher alles auf die kirchliche Frage Bezügliche in diesem Bande gegeben werden wird, dürfte die Abonnenten für die verlangsamte Ausgabe entschädigen.

Leipzig, Februar 1874.

Hochachtungsvoll ergebene

Duncker & Humblot.



Aus:

Un po' più di luce sugli eventi politici e militari dell' anno 1866

pel Generale

Alfonso La Marmora[1]).

Nr. 5060.

ITALIEN. — Min. d. Ausw. (Graf Cavour) an General La Marmora. Sendung nach Berlin.

Turin, 16. Januar 1861.

Nr. 5060. Italien. 16. Jan. 1861.

Excellenz! — Se. Majestät der König haben geruht Ew. Excellenz zum ausserordentlichen Gesandten zu ernennen, um Se. preussische Majestät anlässlich der Besteigung des Thrones ihrer Väter zu beglückwünschen. || Indem Se. Majestät diese Mission einer durch ihre dem Lande geleisteten Dienste und die höchsten Würden des Staates so ausgezeichneten Person vertraute, wollte er zugleich dem Berliner Hofe ein Zeugniss geben, wie hoch er die

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[1]) Bei dem Interesse, welches sich an die politischen Beziehungen zwischen Preussen, Italien und Frankreich vor dem Kriege von 1866 knüpft, insbesondere weil in denselben die Keime des späteren deutsch-französischen Konfliktes liegen, geben wir nachstehend die wichtigsten Aktenstücke aus La Marmora's Buch. Dasselbe bildet übrigens nur den ersten Theil des Werks, dessen zweiter Theil sich speciell mit der Leitung des Kriegs von 1866 und der Politik während desselben beschäftigen sollte, wogegen der erste Theil hauptsächlich die Vorbereitungen zum Kriege und die Haltung Italiens in der Zeit vom 23. Sept. 1864 bis 17. Juni 1866, während welcher La Marmora Ministerpräsident und Minister des Auswärtigen war, schildern will. Das Erscheinen des zweiten Theils ist inzwischen zweifelhaft geworden.

Wir geben die von La Marmora französisch mitgetheilten Aktenstücke im Original, die italienischen nach der bei Franz Kirchheim in Mainz erschienenen deutschen Uebersetzung.

A. d. Red.

Nr. 5060. Italien. 16. Jan. 1861.

glücklicherweise zwischen beiden Kronen bestehenden freundschaftlichen Beziehungen schätze, und wie sehr er sie zu befestigen und zu erweitern wünsche. Obgleich benannte Sendung ein reiner Act der Courtoisie gegen die Person des neuen Herrschers von Preussen ist, so wird derselbe nichtsdestoweniger Ew. Exc. wahrscheinlich Gelegenheiten genug bieten, um die Intentionen der königlichen Regierung und die politische Haltung, welche sie unter den gegenwärtigen Verhältnissen zu bewahren gedenkt, in ein klareres Licht zu setzen. Zu diesem Zwecke halte ich es angezeigt, Ihnen Fingerzeige zu geben, jedoch so kurz als möglich, weil Ihre vollständige Kenntniss der Absichten, mit welchen sich die Regierung trägt, mich der Mühe überhebt, Ihnen die Aufklärungen zu geben, die für einen Anderen nothwendig wären. || Sie wissen ja, dass der neue König von Preussen während seiner Regentschaft sich als einen sehr eifrigen Anhänger des Princips der sogenannten Legitimität bewährt hat und demgemäss mit einem gewissen Misstrauen der nationalen Bewegung gefolgt ist, Dank deren heute Italien unter dem einzigen Scepter unseres erhabenen Souveräns steht. Dieses Misstrauen, das sich bereits bei verschiedenen Gelegenheiten bekundete, tritt besonders lebhaft in einer Depesche des Baron Schleinitz vom 13. October v. J. hervor; ich habe darauf am 29. Oct. geantwortet. Ich füge eine Abschrift dieser beiden Schriftstücke bei; Ew. Exc. werden darnach leicht entnehmen können, in welcher Hinsicht die beiden Regierungen sich annähern und auseinander gehen. || Sobald die Rede auf wesentlichere, nämlich auf diejenigen Dinge kommt, welche augenblicklich vorwiegend die Aufmerksamkeit des Berliner Hofes beschäftigen, so ist Ew. Exc. ermächtigt zu erklären, wenn sich gerade die Gelegenheit bietet, dass die Regierung des Königs keineswegs beabsichtige, mit Oesterreich einen Krieg anzufangen, und dass sie nöthigenfalls jene unregelmässigen Freiwilligenzüge zu verhindern wissen werde, die bis zu einem gewissen Masse ihre Actionsfreiheit in Frage stellen könnten. Sie können beiläufig noch bemerken, dass wir die italienische Frage nicht eher für gelöst halten, bis Venetien an Italien zurückgegeben sein werde; aber wir gäben die Hoffnung nicht auf, dass jene folgenschwere Aenderung, sei es, wann es wolle, sich in friedlicher, naturgemässer Lösung herbeiführen lasse. Unter den verschiedenen Gründen, welche uns zu einem solchen Vertrauen berechtigen, zählt auch die neue politische Richtung, die Kaiser Franz Joseph eingeschlagen hat. Unseres Ermessens ist es nicht möglich, dass die grosse Reform, die in Oesterreich unter dem Namen des Nationalitätsprincips begonnen hat, für lange Zeit die venetianische Nationalität in der Erniedrigung und Unterdrückung belassen und sie behindern könne, sich mit dem Körper der Nation zu verbinden, von welcher die nackte Gewalt sie bis heute getrennt hält. || Was Ungarn anbelangt, so werden Sie nicht verschweigen, dass wir die lebhaftesten Sympathieen für jene hochherzige, tapfere Nation hegen und ihr jene Verbesserungen wünschen, die sie selbst im Namen ihrer hundertjährigen Rechte beansprucht und die ihr allein Ruhe und Glück bringen können. Indess weit entfernt, sie anzuregen, dass

Nr. 5060. Italien. 16. Jan. 1861.

sie mittelst Revolution und Waffengewalt ihre Rechte wieder erobere, seien wir vielmehr von dem Wunsche durchdrungen, dass sie dieses Ziel mit gesetzlichen Mitteln, kraft der Freiheiten erreiche, welche man ihr wieder verliehen. || Desgleichen müssen Ew. Exc. entschieden erklären, das Königreich Italien werde allzeit und gewissenhaft die Rechte des Deutschen Bundes achten; und wenn in dieser Hinsicht nochmals die Sprache auf die Erwägungen in Betreff Triest's kommen sollte, die an der Spitze des bekannten Decrets des Herrn Valerio stehen (betr. den Oesterreichischen Lloyd), so wiederholen Sie die Gründe, die ich schon dem Grafen Launay in der beifolgend copirten Depesche auseinandergesetzt habe. Ausserdem geben Sie zu bedenken, dass diese „Erwägungen" in Italien völlig unbeachtet geblieben und die Regierung des Königs ihr Augenmerk darauf erst dann richtete, seitdem Graf Rechberg aus leicht zu errathenden Gründen mit vielem Geräusch die deutschen Cabinette darauf aufmerksam gemacht hatte, ein deutlicher Beweis, welche Bedeutung jenen rhetorischen Phrasen zuzuschreiben ist, die übrigens die Regierung missbilligt hat. || Der preussische Minister der auswärtigen Angelegenheiten hat auch dem Grafen Launay Mittheilungen wegen der Waffen gemacht, die von Genua aus expedirt und in den Häfen der moldo-walachischen Fürstenthümer beschlagnahmt worden sind. Jetzt weiss er, dass diese Waffen direct aus Ungarn gekommen sind, und zwar von dem General Türr, welchem sie der General Garibaldi während seiner Dictatur auf den beiden Sicilien zum Geschenke gemacht hatte. In der beigefügten Depesche werden Sie zu diesem Zwecke jene Aufklärungen lesen, welche die Regierung über eine Thatsache bringen kann, der sie ganz fremd geblieben ist. || In Betreff der allgemeinen Fragen über die Richtschnur unserer Politik und die gegenwärtige Lage der Halbinsel müssen Sie in erster Linie zu verstehen geben, dass das einige Italien ein wahres und dauerndes Interesse besitzt, die freundschaftlichsten Beziehungen mit Preussen zu unterhalten; denn diesem letzteren ist an der künftigen Gestaltung Deutschlands eine ganz hervorragende Rolle aufgespart. Dieses Interesse tritt augenscheinlich zu Tage, wenn man nur erwägt, dass beide Regierungen ihre Macht auf das Nationalitätsprincip und die gesetzliche Hochhaltung der liberalen Institutionen gründen und daraus ihre Kraft schöpfen, und dass der einen wie der anderen dieselben Schwierigkeiten in der Bewahrung der gemeinsamen Unabhängigkeit entgegenstehen, mögen die Gefahren und Verwicklungen von einer Seite kommen, woher sie wollen. Die Lage der süditalienischen Provinzen hätte allenfalls einen Zweifel wegen der friedlichen Befestigung der neuen Ordnung der Dinge erwecken können. Ew. Exc. können indess sagen, dass die Gemüther sich zu beruhigen anfangen, und dass die Wühlereien, eine unausbleibliche Folge der politischen Aenderungen, jetzt nahezu erloschen sind. Die Wegnahme von Gaëta wird der Reaction die letzten Hifs- und Reizmittel entziehen und in den Gegenden, wo jene, allerdings vergeblich, ihre Kräfte versucht, die Ruhe vollständig wiederherstellen. || Zum Schlusse gegenwärtiger Instruction zwei Verhaltungsmassregeln.

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Sie werden natürlich während Ihres Berliner Aufenthaltes mit den russischen Diplomaten verkehren müssen. Geben Sie in Ihren Unterhaltungen denselben zu erkennen, mit welchem Wohlgefallen die Regierung des Königs es sehen würde, wenn sich die Beziehungen zwischen den beiden Höfen von Neuem befestigten; andererseits werden Sie sich aber jeglicher Dienstfertigkeit enthalten, sonst könnte man am Ende bei uns eine gewisse Zudringlichkeit argwöhnen; diese verträgt sich aber durchaus nicht mit jener würdevollen Reserve, welche Se. Majestät einer Macht gegenüber einzuhalten gedenkt, die ohne einen eigenen Grund so feierlich ihre Gesandtschaft von Turin zurückgerufen hat. Der Tact und die Klugheit Ew. Exc. werden Ihnen schon die bei dieser so delicaten Sache erforderliche Weisung und Leitung geben. || Zweitens werden Sie häufig in Berührung mit preussischen Militärs kommen. Das Gespräch kann dann wohl auf Venetien fallen, das zu Berlin nicht Wenige als militärische Grenzposition zur Sicherung des Deutschen Bundes nothwendig erachten. Ich werde Ihnen nicht die Gründe näher berühren, um die Unstichhaltigkeit dieser Behauptungen zu widerlegen. Ew. Excellenz werden mit jener Autorität zu sprechen wissen, die Ihnen allein zu eigen ist, und Ihre Bemerkungen werden hoffentlich einen tiefen Eindruck bei denen zurücklassen, die nicht im Interesse Oesterreichs, sondern im Interesse Deutschlands die gefährliche Theorie von den Grenzen aus dem einzigen Gesichtspunkte des eigenen Nutzens aufstellen und nachher, wie im vorliegenden Falle, eine Offensivstellung mit den naturgemässen Vertheidigungsmitteln verwechseln, welche für Italien und Deutschland in denselben festen Plätzen gegeben sind. || Ew. Exc. werden mir gefälligst Alles, das zu wissen Sie für dringlich halten, per Telegraph, und die Informationen, welche man nicht gut der gewöhnlichen Post wird anvertrauen können, durch einen besonderen Courier zukommen lassen. || Genehmigen Ew. Exc. auch bei dieser Gelegenheit den Ausdruck meiner Hochachtung.

C. Cavour.

Nr. 5061.

PREUSSEN. — Min. d. Ausw. (Freiherr v. Schleinitz) an den Gesandten in Turin (Graf Brassier de Saint-Simon). — Preussens Stellung zum Verfahren der sardinischen Regierung und zum Nationalitätsprincip. (Anlage zu Nr. 5060.)

Coblence, le 13 octobre 1860.

Nr. 5061. Preussen. 13. Oct. 1860.

Monsieur le Comte, — Le Gouvernement de S. M. le Roi de Sardaigne en nous faisant communiquer par l'intermédiaire de son Ministre à Berlin, le Mémorandum du 12 septembre, semble lui-même avoir voulu nous engager à

lui faire part de l'impression que ses derniers actes et les principes d'après lesquels il a cherché à les justifier, ont produit sur le Cabinet de Son Altesse R. Mons. le Prince Régent. || Si ce n'est qu'aujourd'hui que nous répondons à cette démarche, V. E. aura su apprécier d'avance les motifs de ce retard; car, d'un côté, elle sait combien nous désirons maintenir de bons rapports avec le Cabinet de Turin, et de l'autre, les règles fondamentales de notre politique sont trop présentes à son esprit pour qu'elle n'ait pas dû pressentir la profonde divergence de principes que toute explication devait nécessairement constater entre nous et le Gouvernement du Roi Victor-Emmanuel. Mais en présence de la marche de plus en plus rapide des événements, nous ne saurions prolonger un silence qui pourrait donner lieu à des malentendus regrettables et jeter un faux jour sur nos véritables sentiments. || C'est donc afin de prévenir des appréciations erronées, que d'ordre de S. A. R. Mons. le Prince Régent, je vous exposerai sans réserve la manière dont nous envisageons les derniers actes du Gouvernement Sarde, et les principes développés dans son Mémorandum précité. || Tous les arguments de cette pièce aboutissent au principe du droit absolu des nationalités. Certes, nous sommes loin de vouloir contester la haute valeur de l'idée nationale. Elle est le mobile essentiel et hautement avoué de notre propre politique qui, en Allemagne, aura toujours pour but le développement et la réunion dans une organisation plus efficace et plus puissante des forces nationales. Mais tout en attribuant au principe des nationalités une importance majeure, le Gouvernement Prussien ne saurait y puiser la justification d'une politique qui renoncerait au respect dû au principe du droit. Au contraire, loin de regarder comme incompatibles ces deux principes, il pense que c'est uniquement dans la voie légale des réformes, et en respectant les droits existants qu'il est permis à un Gouvernement régulier de réaliser les voeux légitimes des nations. || D'après le Mémorandum Sarde, tout devrait céder aux exigences des aspirations nationales, et toutes les fois que l'opinion publique se serait prononcée en faveur de ces aspirations, les autorités existantes n'auraient qu'à abdiquer leur pouvoir devant une pareille manifestation. || Or, une maxime aussi diamétralement opposée aux règles les plus élementaires du droit des gens, ne saurait trouver son application sans les plus graves dangers pour le repos de l'Italie, pour l'équilibre politique et la paix de l'Europe. En la soutenant on abandonne la voie des réformes, pour se jeter dans celle des révolutions. Cependant c'est en s'appuyant sur le droit absolu de la nationalité italienne et sans avoir à allèguer aucune autre raison que le Gouvernement de S. M. le Roi de Sardaigne a demandé au Saint-Siége le renvoi de ses troupes non italiennes, et que, sans même attendre le refus de celui-ci, il a envahi les Etats Pontificaux dont il occupe à l'heure qu'il est la majeure partie. Sous ce même prétexte, les insurrections qui éclatèrent à la suite de cette invasion, ont été soutenues; l'armée que le Souverain Pontife avait formée pour maintenir l'ordre public à été attaquée et dispersée; et loin de s'arrêter dans

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cette voie, qu'il poursuit au mépris du droit international, le Gouvernement Sarde vient de faire donner ordre à son armée de franchir sur différents points les frontières du Royaume de Naples dans le but avoué de venir au secours de l'insurrection et d'occuper militairement le pays. En même temps les Chambres Piémontaises sont saisies d'un projet de loi tendant à effectuer de nouvelles annexions en vertu du suffrage universel, et à inviter ainsi les populations italiennes à déclarer formellement la déchéance de leurs Princes. C'est de cette manière que le Gouvernement Sarde, tout en invoquant le principe de non intervention en faveur de l'Italie, ne recule pas devant les infractions les plus flagrantes au même principe dans ses rapports avec les autres Etats Italiens. || Appelés à nous prononcer sur de tels actes et de tels principes nous ne pouvons que les déplorer profondément et sincèrement, et nous croyons remplir un devoir rigoureux en exprimant de la manière la plus explicite et la plus formelle notre désapprobation et des principes et de l'application que l'on a cru pouvoir en faire. || En vous invitant, M. le Comte, à donner lecture de la présente dépêche à M. le comte de Cavour, et à lui en laisser copie, je saisis cette occasion, etc. etc.

Schleinitz.

Nr. 5062.

ITALIEN. — Min. d. Ausw. an den Gesandten in Berlin (Graf Launay). — Antwort auf die preussischen Vorhaltungen. (Anlage zu Nr. 5060).

Turin, 29. octobre 1860.

Nr. 5062. Italien. 29. Oct. 1860.

Monsieur le Comte, — Dans l'entretien que j'ai eu l'honneur d'avoir avec le comte Brassier de Saint-Simon lorsqu'il est venu me donner lecture de la note du baron de Schleinitz du 13 octobre, j'ai cru devoir lui dissimuler la pénible impression qu'a faite sur moi la désapprobation du Cabinet de Berlin. On se tromperait cependant en supposant que je n'apprécie pas toute la gravité de la démarche que M. de Schleinitz vient de faire, et qu'à Turin on se méprenne sur sa véritable portée. Par suite des remarquables analogies qui existent entre le rôle historique de la Prusse et celui de la Sardaigne, les Italiens ont l'habitude de regarder la Prusse comme un allié naturel dont ils ambitionnent surtout l'approbation. C'est donc avec un regret non moins vif que sincère que le Gouvernement du Roi a appris le jugement sévère que le Cabinet de Berlin a porté sur nos derniers actes. Toutefois en cherchant à reconnaître par un examen attentif de la note Prussienne quelle était la nature de cette divergence d'opinions, j'ai dû me rassurer à la fois et sur les intentions du Prince généreux et éclairé qui est à la tête

du gouvernement Prussien et sur le but de la note dont il s'agit. En proclamant hautement qu'il reconnait la valeur du principe des nationalités, en déclarant même que ce principe est la clef de voute de sa politique en Allemagne, le Cabinet de Berlin désapprouve les moyens dont les Italiens ont dû se servir pour faire triompher ce principe. || Il semble presque craindre qu'on ne gâte la plus noble des causes par l'emploi des forces révolutionnaires. Certes nous admirons les efforts patients et habiles que le Gouvernement Prussien continue à faire pour établir en Allemagne, sans la moindre dérogation au droit conventionnel, une constitution politique plus homogène et plus conforme aux voeux des populations. Nous espérons qu'il réussira à mettre d'accord la légalité avec les aspirations nationales; nous applaudirons, nous lui envierons même son succès. Mais il nous sera permis de remarquer que le Cabinet de Turin n'a cessé de suivre la même voie, que le jour où l'Autriche en envahissant brusquement le territoire piémontais a fait appel elle même à des moyens de combat bien différents de l'influence morale et de l'autorité de l'exemple. Les préliminaires de paix de Villafranca et le traité de Zurich n'ont pu faire cesser l'ébranlement produit en Italie et en Europe par les batailles de Magenta et de Solferino, et il y aurait, à mon avis, une grande injustice à ne pas tenir compte au Gouvernement du Roi des nécessités nouvelles qui lui étaient imposées par les extrêmes difficultés de la situation. || Au surplus, même au point de vue légal et conventionnel, on me parait trop disposé à oublier quelques circonstances, qui ont pourtant une grande portée. Ainsi vous n'ignorez pas, Monsieur le Comte, que le Roi Victor Emmanuel en accédant aux préliminaires de Villafranca a déclaré *n'y consentir que pour ce qui le concernait*, c'est à dire seulement pour les stipulations relatives à la Lombardie. || C'est avec les mêmes réserves qu'on a procédé à la stipulation du traité de Zurich, de sorte que le Roi Victor-Emmanuel n'a d'autre engagement vis-à-vis de l'Autriche que celui de respecter la frontière qui sépare leurs Etats respectifs. || Il est aussi tout-à-fait inexact que les troupes de S. M. aient envahi les Marches et l'Umbrie sans une déclaration de guerre; et le Cabinet de Turin n'a point manqué de notifier au Baron de Winspeare l'entrée des troupes Royales dans le territoire Napolitain. Enfin l'occupation par des soldats italiens d'un territoire italien en proie à la révolution, ne peut être regardée comme une violation du principe de la non-intervention. || En 1847 l'Autriche a occupé Cracovie et l'a annexée à ses Etats en prenant pour prétexte la nécessité d'éteindre un foyer révolutionnaire; l'occupation du territoire napolitain par nos troupes est-elle moins légitime parce que elle a été demandée par des milliers d'adresses au Roi, et sanctionnée par la presque unanimité du suffrage universel? || En vous communiquant ces observations d'une manière tout-à-fait réservée je n'ai voulu que vous mettre à même, Monsieur le Comte, de répondre verbalement aux remarques qu'on pourrait vous adresser sur notre conduite. || Je me réserve de traiter avec quelque développement toutes ces questions dans une Note

Nr. 5052. Italien. 29. Oct. 1860. que j'aurai l'honneur d'adresser aux Légations de S. M. et qui réussira, je l'espère, à obtenir que le Cabinet de Berlin porte sur nous un jugement plus favorable. || Agréez etc.

C. Cavour.

Nr. 5063.

ITALIEN. — General La Marmora an den Min. d. Ausw. — Bericht über die Mission nach Berlin.

[Auszug.]

Milan, le 17 février 1861.

Nr. 5063. Italien. 17. Febr. 1861. Excellence, — A mon arrivée à Berlin le 25 janvier dernier, je fus reçu à la gare du chemin de fer par M. le baron de Launay et je fus sans retard présenté par lui au Ministre des affaires étrangères de Prusse, à qui j'ai remis une copie de la lettre dont j'étais chargé par S. M. le Roi, en le priant en même temps de me procurer une audience de S. M. afin que je puisse lui présenter mes lettres de créance, ainsi que la lettre autographe de notre auguste Souverain. Le baron de Schleinitz fut très-aimable avec moi, mais notre conversation ne roula que sur des objets tout à fait étrangers à la politique. . . . .
|| Le Roi m'adressa toujours la parole de la manière la plus aimable, seulement la conversation ne cessa pas de rouler sur la Famille Royale, sur l'organisation des armées, beaucoup sur la campagne de Crimée, sur les canons rayés, cela va sans dire, et même sur la campagne de 1859; mais S. M. ne toucha point à la politique actuelle, ni à tout ce qui s'est passé dans la Péninsule en 1860. Je ne crus pas pouvoir aborder le premier ces sujets avec le Roi, ni entamer une conversation politique qu'il me semblait ne pas désirer; mais comme je tenais d'autre part à exposer au Gouvernement Prussien de la manière la plus positive ce que Votre Excellence m'avait chargé de lui faire connaître, et à accomplir pleinement mes instructions, je demandai au baron de Schleinitz une audience qu'il m'accorda aussitôt, et qui eu lieu le 1er février. || Dans cette conférence, j'ai d'abord dit au baron de Schleinitz que Votre Excellence m'avait chargé de donner au Gouvernement Prussien l'assurance que le Gouvernement de S. M. n'avait aucunement l'intention d'attaquer l'Autriche; qu'il était même résolu à s'opposer de toute manière aux tentatives que le parti avancé pourrait préparer pour le compromettre; que nous comprenions très-bien que notre entrée dans les Marches et dans l'Umbrie, ainsi que dans le Royaume de Naples, n'avait pas eu un caractère régulier, et qu'elle avait dû naturellement déplaire aux autres puissances, et particulièrement à la Prusse; mais qu'il n'y avait eu pour nous aucun moyen d'agir autrement sans nous laisser déborder par les véritables

révolutionnaires, et sans mettre en péril l'ordre de la sûreté générale au dedans et même en dehors de l'Italie; que ce mouvement des Italiens vers leur émancipation n'était point l'oeuvre artificielle, mais la manifestation spontané d'un sentiment irrésistible, et qu'il n'était donné à personne d'arrêter ce torrent, tandis qu'on pouvait (et il y avait un grand mérite à le faire) le diriger et le contenir. ‖ La Prusse, ai-je ajouté, conserve encore, je ne dirai pas de l'animosité, mais une méfiance profonde contre la France, par qui elle a été humilié pendant huit années, il y a de cela cinquante ans. Comment la Prusse pourrait-elle reprocher à l'Italie de secouer un joug d'injustice et d'humiliation qui pèse sur elle depuis huit siècles? ‖ L'Empereur des Français, continuai-je, n'a pas approuvé, lui non plus, nos dernières entreprises; il eut préféré une confédération Italienne à la réunion de l'Italie en un seul royaume; mais nous avons lieu de croire qu'il voit maintenant dans cette unité le seul moyen d'arriver à une pacification réelle de la Péninsule. ‖ J'amenai ensuite l'entretien sur les deux points qui sont pour nous les plus essentiels la question de la Vénétie, et la proclamation du Royaume d'Italie par les chambres, qui vont être réunies prochainement. Quant à la Vénétie, je parlai d'abcrd de l'état misérable où elle se trouve, et de l'impossibilité qu'un tel état de choses puisse durer; je m'appliquai ensuite à prouver au Ministre que le quadrilatère n'est nullement nécessaire à la défense de l'Allemagne, dont la frontière naturelle est marquée par les Alpes qui la séparent de l'Italie, et que c'est précisément cette frontière qui forme une distinction géographique entre les deux pays, la langue allemande au surplus et la langue italienne étant parlées chacune d'un côté des monts à l'exclusion de quelques communes, insignifiantes. ‖ Le baron de Schleinitz me répondit qu'il était bien aise de reçevoir les assurances pacifiques que je lui apportais de la part du comte de Cavour, dont il apprécie au plus haut degré les talents éminents et les hautes qualités d'homme d'Etat. Nous avons, dit le Ministre, toujours eu la plus grande sympathie pour le Piémont, et nous suivons avec le plus grand intérêt toutes les phases de sa politique, parcequ'il y a une analogie frappante entre la situation du Piémont en Italie et celle de la Prusse, en Allemagne. Certes nous ne pouvons approuver tout ce qui s'est fait dans ces derniers mois; c'est ce que j'ai dû faire sentir, bien à regret, par la Note de M. Brassier de Saint-Simon; mais nous comprenons aussi combien votre position était délicate, et que vous pouviez difficilement prendre un autre parti, aussi n'avons nous pas rappelé notre Ministre de Turin, malgré les vives instances qu'on faisait auprès de nous pour nous y déterminer. ‖ Quant à la Vénétie, nous savons aussi combien elle est malheureuse, et que l'état actuel des choses ne saurait durer. Il y a en Prusse beaucoup de personnes qui pensent que le quadrilatère est nécessaire à la défense des intérêts allemands (le Baron, en disant ces mots, n'avait point du tout l'air de partager cette manière de voir); mais quoi qu'il en soit, vous pouvez-être certain que nous ne jetterons pas de l'huile sur le feu, et que si l'Autriche se dispose tôt ou tard à en venir à un arrangement

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pour la Vénétie, nous n'y mettrons aucun obstacle. ‖ Dans ce cas, ajouta encore le Ministre, nous aurions seulement à combiner les meilleurs moyens de garantir les intérêts germaniques vers l'Adriatique. ‖ Quant à la question de savoir ce que nous ferons dans le cas assez probable où le nouveau Parlement proclamerait Victor Emmanuel Roi d'Italie, nous ne pouvons dire qu'une chose: c'est que nous nous attendons à ce qu'on ne nous mette pas le couteau à la gorge. Nous chercherons par tous les moyens possibles à éviter une rupture de nos relations diplomatiques, tout comme nous les maintenons jusqu'ici. Le comte de Cavour, avec son esprit éclairé, saura trouver un moyen de s'entendre avec nous sur les moyens de sortir de cette difficulté. ‖ Comment en finirez-vous avec Rome, demanda encore M. de Schleinitz? — Je répondis que le comte de Cavour n'avait pas perdu l'espérance de voir se résoudre avec le temps cette grave question; qu'ainsi qu'il l'avait dit à la Chambre, il croyait possible que le Pape restât à Rome avec le Roi d'Italie; qu'en tout cas il ne pensait pas que le chef du Catholicisme pût abandonner Rome. La conversation se détourna ensuite vers des objets de moindre importance; mais toujours le Ministre se montra conciliant, et témoigna de s'intéresser à notre cause. ‖ Ces entrevues n'ont pas été les seules intéressantes parmis celles que j'ai eues à Berlin. En arrivant, je m'étais empressé de voir le Prince de la Tour d'Auvergne, qui a été très-sensible à cette démarche: je l'ai revu fréquemment depuis, et j'ai eu avec lui des entrevues assez dignes d'attention pour que j'en puisse signaler ici à Votre Excellence les points les plus saillants. ‖ L'Autriche, disait donc le Prince, a manqué le moment favorable. Si elle vous eût attaqués lorsque vous êtes entrés dans les Marches et à Naples, la France ne pouvait rien faire pour vous, mais si l'Autriche vient à mettre à présent un pied au delà de ses frontières, soyez persuadé que la France en mettra deux. ‖ J'ai pu constater que les tiraillements entre la France et la Prusse continuent toujours, et ont même augmenté depuis quelque temps. Le Ministre de France s'est plaint surtout devant moi des discours belliqueux que le Roi prononce à chaque instant, et à propos de rien, selon lui. *Il croit qu'en cas de guerre entre les deux pays, la Prusse serait hors d'état de résister; mais je pense, pour mon compte, qu'il y aurait assez à dire sur les résultats d'une telle éventualité.* ‖ Le Prince m'a encore lu un rapport de l'amiral Le Barbier de Tinan, dans lequel j'ai remarqué avec une certaine surprise des appréciations plus favorables à notre égard que je ne les aurais attendues d'un homme que je tenais pour nous être hostile. L'Amiral mandait que la place ne pouvait résister que peu de jours à cause des mauvaises conditions, où se trouvaient les assiégés, et des moyens énergiques et de l'habileté déployées par les assiégeants. M. de Tinan ajoutait que le Roi François II aurait probablement cédé aux instances de l'Empereur qui lui conseillait de capituler avant que la flotte française quittât Gaëte; mais que plusieurs ministres étrangers qui se trouvaient près du Roi l'avaient décidé à continuer sa résistance. M. de Schleinitz a nié cette cir-

constance au Prince en ce qui concerne le ministre de Prusse; je crois savoir, cependant, que M. Perponcher devait être envoyé à Gaëte pour répondre à l'envoi fait par le Roi de Naples du général Cutrofiano à Berlin. La dernière fois que j'ai vu le Prince de la Tour d'Auvergne, il me dit que le baron Schleinitz s'était entretenu avec lui de la possibilité que l'amendement Vincke obtînt la majorité à la Chambre, et il m'affirma que ce ministre lui avait dit ouvertement que l'amendement, fût-il adopté, ne changerait rien à la situation ni à la politique du gouvernement. || J'ai encore vu quelquefois, pendant mon voyage à Berlin, le Général ..... qui, décidément, en visitant l'Italie l'année dernière, a changé de manière de voir à notre égard. En parlant avec moi de la marche suivie par le Gouvernement Prussien, il la désapprouva nettement, et dit que la Prusse laisse échapper, chaque fois qu'elle se présente, l'occasion de se modifier sa configuration territoriale, qui est des plus absurdes, sans avoir jamais le courage de rien entreprendre. || J'aurais pu facilement me mettre en rapport avec les membres du parti libéral, et notamment avec M. de Vincke, qui lui aussi aurait désiré me voir, mais persuadé que dans ce moment le Roi et son Gouvernement auraient pu prendre en mauvaise part une démarche de ce genre, j'ai évité de le faire. Cette réserve ne m'a pas empêché du reste d'arriver au même résultat que si j'avais vu M. de Vincke; car je me suis servi dans cette conjoncture d'un très-ancien ami à moi, officier supérieur de Cavalerie en retraite, grand libéral, qui a été plusieurs fois en Italie, et qui a toujours été chaud partisan de notre cause, par sympathie pour les Italiens et en raison de l'identité de la situation des deux pays. M. de ...... s'est donné beaucoup de mouvement auprès de M. de Vincke, et j'ai des motifs pour croire que le bon vouloir et le savoir-faire du premier ont eu quelque influence sur le récent vote de la Chambre Prussienne, lequel est un véritable événement politique très-favorable à notre cause. . . . .

[Folgen Details über die preussische Armeeorganisation.]

La Marmora.

[La Marmora geht in seinem Buche weiter auf die September-Convention mit Frankreich ein (siehe Staatsarchiv Bd. VII, Nr. 1700), auf seine Ernennung zum Ministerpräsidenten (23. Sept. 1864), auf die beginnenden Differenzen zwischen Preussen und Oesterreich und schreibt[1]):

„Als ich in der Kammer (am 12. November 1864) in der wichtigen Discussion über die Verlegung der Hauptstadt zu sprechen hatte und als Minister

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[1]) Mit der hier angewendeten Cursivschrift und in Klammern eingeschlossen werden diejenigen Stellen aus La Marmora's Buch mitgetheilt, welche zum Verständniss der wiedergegebenen Actenstücke aufzunehmen erforderlich schien. A. d. R.

des Auswärtigen auf unsere internationalen Verbindungen und besonders auf die venetianische Frage hinweisen musste, schloss ich, in eben dieser Ueberzeugung, meine Rede mit der Erklärung: wenn ich in Bezug darauf mit dem Kaiser von Oesterreich hätte verhandeln können, so hätte ich ihm solche Gründe von gegenseitigem Interesse darlegen können, dass sie ihn bewogen hätten, Venetien abzutreten. ‖ . . . . . . ‖ In Berlin scheint man besser als in Wien die Lage begriffen zu haben, auf welche jene wenigen Worte meiner Kammerrede anspielten; denn während Graf Bismarck seine Wachsamkeit zu Wien und Paris verdoppelte, liess er uns bald darauf sagen, der Handelsvertrag werde wieder aufgenommen werden, und er wiederholte uns bei allen Gelegenheiten, dass Italien und Preussen ein grosses und gemeinsames Interesse hätten, einig zu sein und einmüthig vorzugehen. ‖ Indess begann auch in Oesterreich die Gefahr einzuleuchten, die der Monarchie von einem etwaigen Einvernehmen zwischen Preussen und Italien drohen konnte; aber das Wiener Cabinet vermochte sich noch nicht für das Aufgeben Venetiens zu entscheiden und wandte sich an das Pariser Cabinet. Daher richtete der Minister Nigra am 19. November ein Communiqué an mich, das ich wegen seiner Wichtigkeit und Opportunität wörtlich wiedergeben will.“]

Nr. 5064.

ITALIEN. — Gesandter in Paris (Commendatore Nigra) an General La Marmora. — Annäherungsversuche Oesterreichs an Italien.

a.

Paris, 19. November 1864.

Nr. 5064. Italien. 19. Nov. 1864.

Ich ersuche Sie, auf das Nachfolgende Ihre ganze Aufmerksamkeit zu richten. ‖ Aus einer Unterredung, die ich mit Drouyn de Lhuys gehabt habe, und aus anderen Informationen von verschiedener, aber gleich glaubwürdiger Quelle ergibt sich für mich Folgendes: ‖ Oesterreich wäre nicht abgeneigt, das Königreich Italien anzuerkennen und einen regelmässigen diplomatischen Verkehr mit uns herzustellen. ‖ Zu diesem Zwecke würde es von uns keinen Verzicht auf Venetien verlangen, sondern sich mit der Zusicherung begnügen, dass Italien in loyaler Weise die internationalen Pflichten gegen das Kaiserthum Oesterreich erfüllen werde. ‖ Oesterreich würde nicht abgeneigt sein, Handelsverträge mit uns abzuschliessen. ‖ Oesterreich wünschte, dass die Verhandlungen über die Anerkennung durch die Hände Frankreichs und mittelst der guten Dienste jener Macht geführt würden. ‖ Die ganze Tendenz der österreichischen Politik und der öffentlichen Meinung zu Wien spricht sich im Sinne einer Annäherung Oesterreichs an Frankreich und dann an uns aus. ‖ Spanien könnte dazu gebracht werden, das Beispiel Oesterreichs zu befolgen und das Königreich Italien anzuerkennen. ‖ Spanien würde sich zufrieden

geben, wenn man dem Papste eine wenn auch begrenzte weltliche Macht liesse, ja selbst begrenzter als der dermalige Besitz, jedoch müsste er in Wirklichkeit unabhängig sein. || Alle diese Dinge sind nur persönliche Intentionen und Meinungen. Sie haben vorläufig keinen amtlichen Charakter und können noch nicht als Vorschläge betrachtet werden. Immerhin haben sie auch unter dieser Form eine so hohe Wahrscheinlichkeit und Wichtigkeit für sich, dass sie Seitens der königlichen Regierung verdienen erwogen und berücksichtigt zu werden. || Ihnen liegt es ob, Herr General, dies Alles zu überlegen und zu betrachten, ob nicht die Stunde gekommen sei, in eine neue Bahn einzulenken, die zwar nicht frei von Ungelegenheiten ist, aber dafür auch den Vortheil bietet, dass sie ganz offen daliegt und ein ganz deutliches, ganz bestimmtes, augenscheinliches und sicheres Ziel erstrebt, insoweit wenigstens die menschlichen Berechnungen sicher sind. || Ich will hinzufügen, dass dieser Plan, nach meinem Ermessen, nur von dem gegenwärtigen Ministerium ausgeführt werden kann. Dasselbe hat die nothwendige Autorität, um ihm bei der öffentlichen Meinung des Landes das Uebergewicht zu verschaffen. || Der oben entworfene Plan muss, um einen Grund zur Existenz zu haben, von einer inneren bedeutsamen That begleitet sein. Ich weiss, dass ich einen für Alle und speciell für Sie schmerzlichen Punkt berühre. Aber ich weiss, dass ich Ihnen Alles sagen kann und muss. Sie werden meiner Ansicht soweit Rechnung tragen, als Sie für gut befinden werden. Die That, von welcher ich spreche, ist die Entwaffnung. Ich glaube, wenn Sie einen Weg zur Wiederannäherung an Oesterreich einschlagen (welche Wiederannäherung zu den Verträgen führen kann, von denen Sie in Ihrem Briefe sprechen), so braucht man nicht daran zu denken, Krieg anzufangen. Dann wäre es eine leere Einbildung, an einen ganz nahen europäischen Kriegsbrand zu glauben. Dieser wird nicht statthaben, so weit es sich überhaupt muthmassen lässt. Wenn man die Kriegsidee drangibt, und das System der Anerkennung Oesterreichs und der Ordnung der Finanzen und inneren Verwaltung um jeden Preis annimmt, so bietet sich die Idee der Entwaffnung von selbst dar. Ich füge nicht lange Worte bei über einen Gegenstand, betreffs dessen Sie viel competenter sind, als ich. Für mich ist es genug, denselben Ihnen angedeutet zu haben. Denken Sie darüber nach, und sagen Sie mir nachher, wenn Sie glauben, Ihre Ansicht, damit ich bei gegebener Gelegenheit mich nach einer bestimmten Directive richten kann, denn wahrscheinlich wird es sich um dieses Argument drehen! || Beachten Sie jedoch, dass, soweit Drouyn de Lhuys mit mir gesprochen, und ich auch anderweitig erfahren habe, bloss die Frage der Anerkennung durch Oesterreich und Spanien, und nicht auch die Frage der Entwaffnung in Betracht kommt, über welche letztere noch Niemand ein Wort mit mir gesprochen hat.

Nigra.

b.

Paris, 26. November 1864.

Nr. 5064. Italien. 26. Nov. 1864.

.... Nach Ansicht des Herrn Drouyn de Lhuys (und auch nach der meinigen) wird Oesterreich sich gegen jeden Vorschlag einer Abtretung Venetiens gegen Geldentschädigung sträuben. Herr Drouyn de Lhuys lässt hierin nicht den geringsten Zweifel zu, glaubt aber, dass Oesterreichs Abneigung sich in Zukunft vielleicht beschwichtigen liesse, wenn man anstatt Geld einen Gebietsaustausch vorschlüge ....

[*Wohlverstanden handelte es sich um die Donaufürstenthümer, jenes Lieblingsproject des vorhergehenden Ministeriums und vorzüglich des Commendatore Nigra, worauf ich jedoch kein grosses Vertrauen setzte; ich stellte es auf gleiche Linie mit der Anerkennung Oesterreichs, trotzdem Baron Malaret mehrmals zu mir gekommen war, um darüber zu sprechen.* || *Es bot sich mir ein ganz vortreffliches Motiv dar, weit besser als ein Vorwand, um den französischen Vorschlag wenigstens hinauszuziehen. Wie wollt Ihr, pflegte ich dem französischen Gesandten zu wiederholen, dass wir uns bemühen, unsere Beziehungen zu Oesterreich und zwar hauptsächlich durch einen Handelsvertrag wieder aufzunehmen, wo Ihr uns mit der Septemberconvention verpflichtet habt, die Hauptstadt mit einer wenigstens anscheinenden Drangabe der römischen Frage zu wechseln? .....* || *Aber noch ein anderes nicht minder wahres Motiv, das sich, obwohl es das allerwichtigste war, doch nicht anzuführen ziemte, war die tagtäglich zunehmende Spannung zwischen Preussen und Oesterreich. Denn gerade in den Monaten, wo wir mit der Verlegung unserer Hauptstadt beschäftigt waren, hatten sich die alten Erscheinungen der Eifersucht, des Grolls und der Rivalität zwischen jenen beiden Grossmächten wieder frisch entzündet und in einer Weise vermehrt, dass sie uns die Hoffnung einflössten, aus ihnen werde auf die eine oder andere Art die Emancipation Venetiens und seine Vereinigung mit dem Königreiche Italien erblühen.*]

Nr. 5065.

ITALIEN. — General La Marmora an den Gesandten in Paris. — Preussische Eröffnungen.

Florenz, 4. August 1865.

Nr. 5065. Italien. 4. Aug. 1865.

Seitdem Sie von Florenz abgereist sind, ist der preussische Gesandte schon zweimal bei mir gewesen. Er las mir keine diplomatischen Noten vor — er hatte auch, glaube ich, keine erhalten, — aber mit Telegrammen seines Premierministers in der Hand ersuchte er mich, das erste Mal und noch

dringlicher das zweite Mal, zu erklären, welche Haltung Italien in dem wahrscheinlichen Falle eines Krieges zwischen Preussen und Oesterreich einnehmen würde. || Wie Sie sich vorstellen können, nahm ich diese Mittheilungen mit der grössten Zurückhaltung entgegen, und anstatt meine innerliche Befriedigung über eine für unsere Geschicke so günstige Wendung zu erkennen zu geben, hob ich gewiss nicht unbegründete Zweifel und Schwierigkeiten hervor, allein vorzüglich in der Absicht, Zeit zu gewinnen. || Wenn die preussische Regierung (sagte ich zu ihrem Gesandten Usedom) im Ernste mit Oesterreich Krieg anzufangen beabsichtigt, so soll sie uns einen ernsten und förmlichen Vorschlag machen; wir werden ihn dann prüfen; aber wenn es sich bloss um eine Erklärung unsererseits handelt, um einen diplomatischen Druck zu Gunsten Preussens zu üben, so ziemt sich dies nicht für uns. || Als auf diese meine Entgegnung hin Graf v. Usedom mich zum zweiten Male besuchte, um mir zu wiederholen, dass Preussen entschlossen sei, mit Oesterreich Krieg anzufangen, erklärte ich ihm ohne Umschweife, dass wir keine Verbindlichkeiten eingehen könnten, ohne vorher zu wissen, welches die Intentionen des Kaisers der Franzosen seien; zugleich zögerte ich nicht, durchblicken zu lassen, dass die preussische Regierung es wohl ebenso mache. || Sie begreifen wohl, erwiderte ich Usedom, von welcher Wichtigkeit es für uns und auch für Preussen ist, zu wissen, ob Frankreich jenem Kriege zugethan oder abgeneigt ist. || Zu verschiedenen Malen wiederholte ich dem preussischen Gesandten, wie sehr vorsichtig wir vorgehen müssten, wenn wir einen neuen Krieg mit Oesterreich anfangen wollten; denn wir seien überzeugt, dass dies ein Krieg auf's Aeusserste sein werde. Naturgemäss wird Oesterreich Italien zu vernichten suchen und wir werden das Schwert nicht in die Scheide stecken können, bis Oesterreich keinen Soldaten mehr in Italien haben wird. . . . .

. . . .

|| Bevor wir indess Verbindlichkeiten gegen Preussen übernehmen, dürfen wir nicht die Voraussetzung ausschliessen, Oesterreich sehe von Weitem das Unwetter herannahen, das es niederschmettern will, und entschliesse sich deshalb, weil es bei dem verzweifelten Stande seiner Finanzen und seinen politischen Wirren einen langen Krieg nicht ertragen könne, endlich dazu, Venetien zum Opfer zu bringen. || Sie werden bemerkt haben, wie alle deutschen Zeitungen hievon sprechen; und weil ich nirgends diese Nachrichten dementirt sehe, so beginne ich zu glauben, dass irgend etwas zwischen Wien und Paris verhandelt wird. Geben Sie wohl Acht, denn die österreichische Regierung könnte noch etwas im Schilde führen, um aus den dermaligen Schwierigkeiten herauszukommen. Niemand ist besser als Sie in der Lage, die Sache zu beurtheilen. || Um den kriegerischen Geist und die Eigenliebe der Preussen recht zu reizen, bemerkte ich Usedom, kein Mensch nehme die Drohungen Preussens im Ernste, Oesterreich vielleicht noch weniger als die anderen, weil es gerade in diesem Augenblicke entwaffne. || Dem

Nr. 5065. Italien. 4. Aug. 1865. Baron Malaret erklärte ich später zu wiederholten Malen, die französische Regierung möge recht sehr beherzigen, sobald der Krieg zwischen Preussen und Oesterreich wirklich ausbreche, sei es unmöglich, dass Italien nicht Theil daran nehme. Keine Regierung würde es hindern können.

La Marmora.

Nr. 5066.

ITALIEN. — Gesandter in Paris an General La Marmora. — Frankreichs Ansicht über die Situation.

13. August 1865.

Nr. 5066. Italien. 13. Aug. 1865. Was Italien anbelangt, erwiederte der kaiserliche Minister, so finde ich die Antwort des Generals La Marmora an den Grafen Usedom opportun und passend, und adoptire sie für meine Person zu drei Vierteln. ‖ Ich glaube, dass das Florentiner Cabinet gut daran thäte, in derselben Weise fortzufahren. Ihre Stellung ist ausgezeichnet. Verstehen Sie nur zu warten. ‖ Ich unterbrach meine Zwischenreden, um ihm zu sagen: ‖ Und wenn die italienische Regierung nicht mit aller Zurückhaltung handeln könnte, oder dies in ihrem Interesse nicht thun zu können glaubte; wenn sie mit anderen Worten glaubte, in eine Phase der Action treten zu müssen, so denke ich, würde Frankreich sich doch nicht widersetzen? ‖ Gewiss nicht, entgegnete Drouyn de Lhuys. Das Florentiner Cabinet ist der Richter über seine Interessen und besitzt volle Actionsfreiheit. Aber in diesem Falle würde Italien den Krieg auf eigenes Risico und eigene Gefahr unternehmen. ‖ Ich hielt dagegen: Wenn aber die Kriegsereignisse Oesterreich von ungefähr an den Ticino, an die Stura, an die Alpen führen sollten? ‖ Dann, erwiederte Drouyn de Lhuys, würde einer jener Fälle eintreten, wo Frankreich sich vorbehält, für seine Interessen Vorsorge zu treffen; denn es ist ein wichtiges Interesse Frankreichs, dass Oesterreich das verlorene Terrain in Italien nicht wiedergewinne. . . . . Darum rathe ich Euch Vorsicht an. . . . . . . Beeilt Euch nicht, Euere Action zu compromittiren. Oesterreich selbst könnte vielleicht versuchen, ein Abkommen mit Euch zu treffen. Fürst Metternich machte mir Eröffnungen über einen commerciellen Vergleich zwischen Oesterreich und Italien (es spricht immer noch Drouyn de Lhuys). Dieser Vergleich sollte, wie Oesterreich sagt, einzig den Zweck haben, die Beziehungen zwischen Venetien und den italienischen Grenzen zu erleichtern und besser zu regeln, aber vielleicht wird die Sache dabei nicht stehen bleiben.

Nigra.

[Dieser letzten Erklärung des französischen Ministers musste ich um so mehr Rechnung tragen, als wenige Tage darauf zwischen Preussen und Oesterreich die Convention von Gastein geschlossen wurde. . . . . . || Der preussische Gesandte verliess Florenz und liess sich zwei Monate lang nicht mehr sehen.]

. . . .

[Nach dem Vorgehen des Berliner Cabinets war ich nicht nur frei von jeder Verbindlichkeit, sondern überhaupt von der Pflicht, irgend welche Rücksicht gegen Preussen zu beobachten, und so verfiel ich denn auf den Gedanken, bei der Wiener Regierung den Versuch zu machen, ob sie sich nicht zu einer Abtretung Venetiens gegen Geldentschädigung verstände. || Der Augenblick schien mir desto gelegener, da unser Gesandter Herr Nigra mir am 29. August von Paris aus schrieb: „Die Gasteiner Convention macht hier den schlechtesten Eindruck. Herr Drouyn de Lhuys sagte mir, die beiden deutschen Grossstaaten hätten alle Principien mit Füssen getreten; das Princip der Nationalität, das Princip der Volkssouveränetät, das Princip der Volksinteressen. Bei jenen bedauerlichen Unterhandlungen habe eine jede der contrahirenden Mächte als einzige Richtschnur ihre Gewalt und ihr Interesse zu Grunde gelegt.“ || Ich will bloss bemerken, dass jener Versuch nicht gelang. . . . || Inzwischen brachte Graf Bismarck nicht ganz ohne Schwierigkeiten (soweit man mir versicherte) eine Zusammenkunft mit dem Kaiser Napoleon in Biarritz zu Stande. Obgleich ich, wenigstens zum Theil, die Hauptgegenstände zu kennen glaube, welche dort verhandelt wurden, so will ich doch besser davon absehen; denn, wenn sie auch unseren Interessen nicht ganz fremd waren, so schickte es sich doch für uns, sie so aufzufassen. Uns war hauptsächlich daran gelegen, zu wissen, ob bei den neuen Verwicklungen, die zwischen Preussen und Oesterreich ungeachtet der Gasteiner Convention, zu Tage traten, Preussen uns nöthig hatte, und ob Frankreich, falls Preussen uns einen ernstlichen Vorschlag machte, sein Wohlwollen gegen uns weiter bethätigt hätte. || In dieser Hoffnung bestärkten mich die Aeusserungen, die Graf Bismarck auf der Rückreise von Biarritz in den ersten Tagen des November unserm Gesandten Nigra gegenüber in Paris that. Er gab zu verstehen, dass der Krieg mit Oesterreich unvermeidlich sei. Er zeigte sich voll Vertrauen, dass Frankreich ihm nicht feindlich sein würde; und um zu zeigen, wie er sich auf unsere Beihilfe verlasse, erklärte er ohne Weiteres: wenn Italien nicht da wäre, so müsste man es erfinden. Dann kam er auf den Handelsvertrag (welchen das preussische und nicht das italienische Cabinet ein Jahr vorher verschleppt hatte) und ersuchte eindringlich, die Unterhandlungen wieder aufzunehmen. . . . . . || Noch mehr, ehe noch der Handelsvertrag in Berlin ratificirt wurde, liess mich der Graf Bismarck, ohne die Intervention der preussischen Gesandtschaft in Florenz, einladen, im grössten Geheimniss einen General, der mein vollstes Vertrauen besitze, nach Berlin zu senden,

und kündigte mir an, dass er sobald als möglich einen preussischen General (man sprach von dem General Moltke) nach Florenz schicken werde, um für den Fall eines Krieges mit Oesterreich ein Einverständniss zu erstreben.]

Nr. 5067.

ITALIEN. — General Govone an General La Marmora. — Erster Bericht aus Berlin[1]).

Berlin, 14. März 1866.

Nr. 5067. Italien. 14. März 1866.

Excellenz! — Indem ich Ihnen meine Ankunft in Berlin anzeige, muss ich sofort beifügen, dass sie schon seit gestern ausposaunt war und dass * * * selbst dem Gesandten von Hannover davon Nachricht gegeben hatte, durch welchen sie wie ein Lauffeuer in der Stadt verbreitet wurde. Der Graf Bismarck, welchem der Graf Barral diese Indiscretion berichtete, zeigte sich höchst verwundert und entrüstet darüber und sagte, er werde die Vermittlung des Königs anrufen, um sie zu bestrafen. Ich werde keinen Commentar über eine Indiscretion schreiben, welche den Interessen Sr. Excellenz des Conseilspräsidenten sehr gute Dienste leisten würde, wenn es wahr wäre, dass das Cabinet von Berlin statt auf eine ernstliche Verständigung mit Italien einzugehen, welche geeignet wäre, zu günstigen und gegenseitigen Resultaten zu führen, gegenwärtig vielmehr versucht, Oesterreich zum ausschliesslichen Vortheil seiner eigenen Politik einzuschüchtern. || Der Graf Barral, welchem ich diesen Morgen, sofort nach meiner Ankunft, die vertrauliche Depesche Ew. Excellenz mittheilte, informirte den Grafen Bismarck, welcher schon das Verlangen darnach geäussert hatte, ohne Aufschub von meiner Ankunft, und der Conseilspräsident antwortete in einem Billet, es werde ihm ein Vergnügen machen, mich im Laufe des Tages zu sehen und er werde, um der Ueberwachung der Agenten zu entgehen, die ihn ausspioniren, Nachmittags um 3 Uhr sich aus dem Staatsministerium, welches der italienischen Gesandtschaft gegenüber liegt, zum Grafen Barral begeben. || Der Graf Bismarck kam, und nach einigen Worten von keiner Bedeutung, überliess er es mir, auf die Frage einzugehen, welche mich nach Berlin führte. Ich sagte, dass der König und Ew. Excellenz Ursache haben, anzunehmen, dass Preussen, nach den wiederholten und dringenden Mittheilungen des Grafen von Usedom, welche uns derselbe neuestens gemacht, entschlossen sei, die Lösung der Fragen, welche in diesem Augenblicke seine Interessen in Deutschland berühren, selbst in einem Kriege gegen Oesterreich zu suchen.

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1) Siehe das Schreiben zur Beglaubigung des Generals Govone in besonderer Mission Staatsarchiv Bd. XII Nr. 2485; vgl. auch Nr. 2486. A. d. R.

Der König und das Cabinet von Florenz seien geneigt, sich Preussen anzuschliessen, um in derselben Zeit, wo dieses die Erfüllung seines eigenen Programmes suchen würde, die Lösung der venetianischen Frage zu suchen. Italien könne aber warten, fügte ich bei, und darum wolle es keinen entscheidenden Schritt thun, ohne dass demselben formelle Verpflichtungen vorangingen, durch welche die beiden Programme, das italienische und das preussische, sich solidarisch machen würden; dass ich, wenn diese Basis angenommen sei, eine so zu sagen technische Mission habe, nämlich eine Militärconvention zu vereinbaren, welche eine Folge der oben erwähnten politischen Abmachungen wäre. || Der Graf Bismarck hörte mit grosser Aufmerksamkeit und mit einem durchdringenden Blick auf meine Worte, dann entwickelte er seine Ansichten. Er ging bis auf die Epoche der Olmützer Convention zurück und sagte, es wäre ihm wünschenswerth, wenn es in diesem Augenblicke in Deutschland eine ebenso verwickelte Situation gäbe, wie die von 1850, weil der Charakter des gegenwärtigen Königs ihm eine sichere Bürgschaft dafür sei, dass der Krieg die Lösung derselben besorgen werde, während sie damals in der oben erwähnten Convention von Olmütz im Sand verlief. Es sei jetzt seine Absicht, Deutschland in den Zustand einer ähnlichen Verwickelung zu führen, wie jene, um den Zweck zu erreichen, den er sich vornehme, und er gestehe offen, dieser sei kein anderer, als die Befriedigung des Ehrgeizes Preussens, ein Ehrgeiz, welcher sich auf die Herrschaft über Norddeutschland erstrecke, aber zugleich auch beschränke. Es wäre ihm sehr leicht, fügte er bei, den Krieg aus der Frage der Elb-Herzogthümer allein hervorgehen zu lassen, aber ein solcher, und so grosser Krieg wegen einer so kleinen Frage würde bei der öffentlichen Meinung Europas Anstoss erregen, dagegen würde Europa einen Krieg, welcher eine umfassendere und nationale Lösung der deutschen Frage zum Zwecke hätte, berechtigt finden. | Hier ging der Conseilspräsident in viele Auseinandersetzungen ein. Er sagte, seine persönliche Meinung sei gegenwärtig die, dass Oesterreich sich als der natürliche Feind Preussens betrachten müsste. Er sähe daher seit Langem schon mit Vergnügen die Haltung und die glücklichen Resultate, welche das Haus Savoyen erreicht habe, aber diese seine Meinung stehe in Preussen vereinzelt da. Sonst, fügte er bei, würde hier der Krieg gegen Oesterreich und die französische Allianz als sakrilegisch betrachtet; Italien personificirte sich in Garibaldi oder gar in Mazzini in der allgemeinen Meinung. Es sei ihm gelungen, diese Meinung zu modificiren; er habe noch zuletzt dem König Wilhelm ein Experiment vorgeschlagen, Oesterreich zur Theilnahme am dänischen Krieg zu berufen und zu sehen, ob sich auf die Weise die österreichisch-preussische Allianz befestigen lasse. Dieses Experiment sei vollständig gescheitert, oder besser gesagt, vollständig gelungen, wie er es vorausgesehen. Die natürliche Rivalität Oesterreichs und seine Animosität habe sich lebhafter als je kundgegeben, und das Experiment habe den König und viele Personen von der österreichischen Allianz geheilt.

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Der König Wilhelm habe jetzt die allzu ängstlich legitimistischen Skrupel aufgegeben, und so könne er ihn jetzt nach seinen Absichten leiten. || Der Graf Bismarck formulirte alsdann seine Ansichten, wie folgt: In kurzer Zeit, in drei bis vier Monaten z. B., die Frage der deutschen Reform verziert mit einem deutschen Parlament auf's Tapet zu bringen, mit einem solchen Vorschlag und mit dem Parlament Wirren hervorzurufen, welche Preussen bald in Gegnerschaft mit Oesterreich bringen werden. Preussen sei entschlossen, es dann zum Kriege kommen zu lassen, zu einem Kriege, welchem Europa keine Opposition machen könnte, da es sich um eine grosse und nationale Frage handelt. || Der Graf Bismarck fügte bei, zur Ausführung dieses Planes (welcher nicht ganz ohne Verwicklung ist, wie Sie sehen, Herr General) und um den König, seinen Herrn, leicht bei demselben erhalten zu können, bedürfe er schon jetzt eines Vertrages mit Italien. Er wünsche, dass dieser Vertrag eine schon jetzt von unserer Seite übernommene Verpflichtung wäre, uns diesem Plane Preussens anzuschliessen, wohlverstanden, dass Preussen aus Reciprocität die Verpflichtung übernehmen würde, dass der daraus erfolgende Krieg gleichzeitig die venetianische Frage lösen müsste. || Dies war im Wesentlichen der Inhalt der Rede Bismarcks in ihrem rauhen Kern. || Die auf solche Weise gestellte Frage schien mir keineswegs den Absichten Ew. Excellenz zu entsprechen, weshalb ich, als der Graf Bismarck innehielt, unverzüglich erklärte, dass der König von Italien und seine Regierung wohl geneigt seien, Verpflichtungen für unmittelbare und gleichzeitige Lösung der venetianischen und der deutschen Frage zu übernehmen, da ihnen der Augenblick günstig scheine, dass sie aber nicht schon jetzt ihre Action für entfernte Eventualitäten verpflichten wollten, bei deren Eintritt die Verhältnisse Italiens andere sein könnten, als die gegenwärtigen; ich fügte bei, dass ich trotzdem an Sie, Herr General, berichten werde. Da sagte der Graf Bismarck: Ich begreife; vielleicht mag Italien von einigem Misstrauen gegen uns bewogen sein, und an unserer Treue zweifeln; in diesem Falle könnte Preussen zu Ihrer Sicherheit schon jetzt die verschiedenen Phasen anzeigen, welche die Entwickelung der deutschen Frage nach meinen Plänen zu durchlaufen haben wird, um jenen bestimmten Punkt, jene bestimmte Phase zu suchen, bei deren Eintritt Preussen unwiderruflich gebunden sein soll, ohne mehr zurück zu können; und dann, aber erst dann würde Italien, welches nicht mehr zu fürchten hätte, von uns im Stiche gelassen zu werden, auch selbst verpflichtet bleiben. Wenn wir z. B. diesen Punkt, diese Phase, bei der Berufung des deutschen Parlaments annehmen, ist es dann nicht wahr, dass dann Preussen seine Schiffe verbrannt hätte, und unwiderruflich gezwungen wäre, zu marschiren? Welche Inconvenienz könnte es für Italien haben, schon jetzt zu erklären, dass beim Eintritt dieser Phase seine Politik mit der preussischen solidarisch sei, und dass die beiden Fragen, die venetianische und die deutsche mit einander gelöst werden müssten; kurz, ist es nicht wahr, dass man auf dieser Basis einen Vertrag feststellen könnte? || Mir

schien es, dass die Frage auch so gestellt, sich nicht sehr geändert habe, und dass die praktischen Consequenzen eines solchen Vertrages in keiner Weise Ihren Absichten, Herr General, entsprechen, als Sie mir die Mission anvertrauten, mich nach Berlin zu begeben. Um den Grafen Bismarck unbedingt aus seinen Verschanzungen herauszulocken, und möglicherweise zu entdecken, ob das Alles in seinen geheimsten Gedanken nicht ein blosses Auskunftsmittel sei, um ein neues Pressionsmittel in der speciellen Frage der Elbe-Herzogthümer zu erlangen, antwortete ich, dass ich für eine solche Combination ohne Instructionen sei, und dass ich an Ew. Excellenz berichten werde. Aber wenn es mir erlaubt sei, schon jetzt meine Gedanken und meine persönliche Ansicht auszusprechen, müsse ich glauben, dass die Regierung des Königs dermalen auch unter solchen Bedingungen keine Verpflichtungen übernehmen werde, wenigstens vielleicht nicht, ohne dass man dahin übereinkäme und festsetzte, dass inzwischen von Preussen Oesterreich gegenüber keine Frage, nicht einmal die der Elb-Herzogthümer, gelöst werde, ohne dass gleichzeitig die venetianische Frage gelöst würde. Ohne die Präliminarbedingung glaubte ich, dass Ew. Excellenz keine andere Verpflichtung übernehmen würden. || Mir scheint, dass die Antwort, welche Graf Bismarck auf diesen Vorschlag gab, seine intimsten Absichten bloslegte. || Der Graf Bismarck sagte in der That: Aber wir können die Frage der Herzogthümer in keinen Vertrag hineinbringen. Es ist eine zu kleine Frage, um ein Wort darüber zu verlieren; wir verlangen die Mitwirkung Italiens für höhere Resultate und für verschiedene Zwecke. An erster Stelle, weil wir dadurch die gegenseitige Actionskraft vermehren würden, sodann, weil wir mit Italien vereinigt leichter das Wohlwollen Frankreichs erlangen werden. Heute weigert sich Frankreich, Verpflichtungen gegen uns zu übernehmen. Der Kaiser sagt, er lasse uns in der Frage der Herzogthümer machen, und bewahre eine wohlwollende Neutralität. Später habe er andere Bedingungen zu stellen, die er für jetzt nicht andeuten will. Nun wohlan, wenn wir mit Italien vereinigt sind, werden wir uns auch mit Frankreich leichter verständigen können. Der Graf Bismarck schloss endlich, indem er sagte, dass er, wenn wir auch diesem Ideengang nicht geneigt wären, ein Uebereinkommen zu stipuliren, dann wenigstens als Minimum dessen, was er wünscht, einen einfachen, allgemeinen, beständigen Freundschafts- und Allianz-Vertrag verlangen würde. Dieser Vertrag, obwohl einer reellen praktischen Wichtigkeit entkleidet, und ohne einen bestimmten Zweck, sei ihm immerhin nützlich, um den König Wilhelm auf dem Weg seiner eigenen Combinationen festzuhalten. || Ich behielt mir vor an Ew. Excellenz darüber zu berichten. || Wie Sie sehen, Herr General, geht aus all dem nach meiner Ansicht hervor, dass der Graf Bismarck, mag er nun wirklich die reelle Absicht haben, später zur Lösung der Deutschen Frage mit den Waffen zu gelangen oder nicht, uns inzwischen auf irgend eine Weise binden will. Und das zu einem doppelten Zwecke: Der erste scheint mir der zu sein, auf Oesterreich eine Pression zu üben, um die

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Frage der Elbherzogthümer rasch zu lösen, für welche er seine ganze Actionsfreiheit bewahren will, unter dem prächtigen Vorwande, dass sie eine zu kleinliche Angelegenheit sei, um den Gegenstand eines Vertrages zu bilden. Der zweite Zweck, den er zu erreichen strebt, scheint mir der zu sein, Oesterreich zuvorzukommen, von welchem er directe Propositionen an das Cabinet von Florenz wegen der Abtretung Venetiens fürchtet. || Und in der That, nach verschiedenen anderen Besprechungen über seine gegenwärtigen Bemühungen in München, um Baiern für sich zu gewinnen, und über den Krieg gegen Oesterreich, welchem er den Zweck gibt, sich Böhmens zu bemächtigen, nicht um es zu behalten, sondern um es zu einem Tauschobject zu machen, und Oesterreich aus dem Bunde hinauszubringen, — nach Alledem, sage ich, ging der Graf Bismarck, wie im Vorbeigehen, auf den Verkauf Venetiens über, welchen Oesterreich anbieten könnte. Er sagte, das wäre ein Trug, und wir würden gut thun uns davor zu hüten. Er fügte bei, das hiesse Oesterreich geradezu das Geld liefern, womit es dann Venedig und die Lombardei wiederzunehmen versuchen würde. Es sei daher weitaus vorzuziehen, das Geld, welches für den Loskauf bestimmt wäre, im Verein mit Preussen für den Krieg zu verwenden. Ich beschränkte mich auf die Bemerkung, dass die Lösung mit den Waffen der durch den Loskauf von uns gewiss vorgezogen würde. || Im Ganzen genommen, Herr General, war der Eindruck, welcher dem Grafen Barral und mir von den Eröffnungen des Grafen Bismarck blieb, der, dass Preussen, für jetzt wenigstens, noch lange nicht an den Krieg denkt, dass, wenn es jetzt Uebereinkünfte mit uns zu schliessen wünscht, diese, da sie sich auf entferntere Eventualitäten beziehen, uns für jetzt nicht zu conveniren scheinen, weil sie darauf abzielen, die Lösung der venetianischen Frage direct zwischen uns und Oesterreich zu hintertreiben, welche vielleicht Ew. Excellenz um so annehmbarer erscheinen wird, wenn sie je sich darbieten sollte, je weniger man auf die Aufrichtigkeit und auf die Treue Preussens bei der Forderung, und vielleicht auch bei der Aufrechthaltung solcher Verpflichtungen, wenn sie je eintreten sollten, bauen zu können scheint. Aber nachdem der Graf Bismarck irgend eine Convention oder einen Tractat, und wäre es auch nur ein beständiger Allianz- und Freundschafts-Vertrag, wünscht, und nachdem ich versprochen habe an Ew. Excellenz zu berichten, erwarte ich diesbezüglich Ihre Aufträge, sowie auch geeignete Instructionen, wenn Ew. Excellenz irgend einer anderen der von dem Grafen Bismarck vorgeschlagenen Combinationen beizustimmen für gut finden sollten, welche sich in Folgendem zusammenfassen lassen: || Schon jetzt übernommene Verpflichtung, uns Preussen in der Entwicklung der deutschen Frage, wie Graf Bismarck sie fördern wird, anzuschliessen, oder Verpflichtung, welche erst wirksam zu werden anfinge, wenn die Entwicklung bis zum effectiven Zusammentritte des deutschen Parlaments gediehen wäre. Als Reciprocität die venetianische Frage von Preussen solidarisch neben die deutsche Frage gestellt. Wollen mir Ew. Excellenz verzeihen, wenn ich übermässig

ausgedehnt geworden bin. Es scheint mir, dass ich in einer so wichtigen Frage Ihnen die Argumente, die Combinationen und bisweilen die eigenen Worte des Grafen Bismarck vor Augen legen musste, ehe ich Ihnen den Gesammteindruck wiedergab, welchen ich davon empfangen habe, damit Ew. Excellenz selbst die Erwägungen anstellen können, welche aus all den auseinandergesetzten Umständen sich ergeben, und welche ich ziemlich annähernd berichtet zu haben glaube. || Es ist nicht nöthig Ihnen zu sagen, Herr General, dass ich vor und während der Conversationen mit dem Grafen Bismarck von dem gewichtigen Rath und von dem wirksamen Worte des Grafen Barral unterstützt war. Ich glaube, dass der Eindruck, welchen der Gesandte des Königs in Berlin von den erwähnten Conversationen mit dem Chef des preussischen Cabinets erhielt, dem, welchen ich selbst erhielt, sehr nahe kam und ähnlich war.

Govone.

P. S. Berlin, 15. März 1866.

Herr General! — Mit Bezug auf die Frage, wegen deren ich nach Berlin gesendet wurde, füge ich diese paar Zeilen in einem besonderen Billet bei. | Wenn die Frage, wegen deren ich hierher gesendet wurde, einfach wäre, und es sich einzig darum handeln würde, ob man mit der preussischen Regierung einen Akt abschliessen soll oder nicht, so müsste man nach der Conversation, die ich gestern mit dem Grafen Bismarck hatte, meines Erachtens jede weitere Unterhandlung unverzüglich abbrechen. || Da es aber wegen anderer Unterhandlungen, welche Ew. Excellenz mir andeuteten, für uns nützlich ist, dass man in Wien glaubt, Preussen und Italien seien zum Kriege geneigt und stehen im Begriffe sich zu verständigen und zu verbünden, werden Sie, Herr General, vielleicht glauben, dass ich noch einige Tage hier bleiben und auf die Ansichten des Grafen Bismarck vollends eingehen, auch seine Vorschläge *ad referendum* entgegennehmen, vielleicht auch schliesslich den beständigen Freundschafts- und Friedensvertrag, den er wünscht, abschliessen soll. Auf diese Art gewinnen wir Zeit und Mittel zu den anderen Combinationen, von welchen Ew. Excellenz mir gesprochen haben, und dann hat die Natter den Charlatan gebissen. || Der Conseils-Präsident stellte mich Sr. Maj. dem Könige vor, der wohlwollend war und mir anbot die preussischen Militär-Etablissements zu besuchen, da es mit dem Grafen Bismarck abgemacht war meine Anwesenheit mit diesem Vorwande zu rechtfertigen. || Ich wurde dem Herrn Benedetti vorgestellt, welcher mir sagte, ich mache viel Aufsehen, indem er auf die Publicität anspielte, die man meiner Ankunft gegeben hatte. Der Botschafter L*** L***, welchem ich ebenfalls vorgestellt wurde, forschte mich direkt über die Solidität des Cabinets von Florenz aus und fragte mich, ob ich mit einer Mission gekommen sei. Ich antwortete: Mit der Mission, die preussischen Waffen und die preussische Armee zu sehen. Er fügte bei: Aber Preussen hat Propositionen in Florenz gemacht. Ich erwiederte: dass ich das durchaus

Nr. 5067. Italien. 14. März 1866. nicht wisse. Dann sagte er mir, dass man bei uns sich rüste, aber dass das nicht klug sei. Ich leugnete die Rüstungen und fragte ihn meinerseits ob Preussen nahe daran sei Oesterreich den Krieg zu machen. ,Ich kenne noch nicht den Stand der Dinge, antwortete er, da ich erst seit Kurzem hier bin, aber ich glaube es. Italien hüte sich Verpflichtungen gegen Preussen einzugehen, weil es sonst im ersten passenden Moment im Stiche gelassen würde. Das ist die Ansicht des L*** L***.

Govone.

[*Es ist kaum nöthig zu diesem P. S. zu bemerken, dass, wenn der General auf andere Unterhandlungen und andere Combinationen anspielt, dieses sich nur auf meine bereits kundgegebene Vermuthung stützen kann, dass, wenn Preussen, statt einen Tractat mit uns abzuschliessen, sich der Mission Govone nur hätte bedienen wollen um eine Pression auf das Wiener Cabinet zu üben, Oesterreich dann uns andere Vorschläge machen würde.*]

Nr. 5068.

ITALIEN. — General Govone an General La Marmora. — Weiterer Bericht und preussischer Vertragsentwurf.

Berlin, 17. März 1866.

. . . .

Nr. 5068. Italien. 17. März 1866. Der Graf Bismarck wiederholte, dass der unmittelbare Krieg wegen der Elbherzogthümer sehr viele Unzukömmlichkeiten habe. England missbillige ihn, während es keine ernsten Einwendungen gegen einen Krieg für die deutsche Nationalität erheben könne. Der Kaiser Napoleon erachte ihn ebenfalls als wenig zukömmlich, und nicht einmal unter dem Gesichtspunkte der Befreiung einer Provinz von der Fremdherrschaft gerechtfertigt, wie es bei dem Krieg um Venetien für Italien der Fall wäre. Mit Bezug auf den Kaiser Napoleon fügte er bei: Man kann wohl glauben, dass er einen grossen deutschen Krieg sucht, weil man an der Spitze einer Armee wie die französische immer seinen Antheil am Profit finden kann (sagte Bismarck), aber auch ausserdem würde er (der Kaiser) als Prinzipienfrage den grossen Krieg für die deutsche Nationalität viel mehr billigen, als den Krieg für die Elbherzogthümer. Alle diese Gründe, schloss der Graf Bismarck, drängen uns den Krieg hinauszuziehen und nach und nach vorzubereiten. Aber ehe wir den Weg der Vorbereitung betreten, wünschen wir uns die Unterstützung Italiens zu sichern.

Govone.

Beilage.

Artikel 1. Preussen wird die deutsche Reform, entsprechend den Bedürfnissen der modernen Zeit, fördern. Wenn diese Reform die gute Harmonie des Bundes stören und Preussen und Oesterreich mit einander in Conflict bringen könnte, in diesem Falle wird Italien, wenn es davon Mittheilung erhalten hat, an Oesterreich und seine Verbündeten den Krieg erklären.

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Artikel 2. Die beiden Mächte werden alle Streitkräfte, welche die göttliche Vorsehung in ihre Hände gelegt hat, für den Sieg ihrer gerechten Sache und ihrer Rechte verwenden und keiner der beiden Theile wird ohne Zustimmung des andern die Waffen niederlegen und irgend einen Frieden oder Waffenstillstand unterzeichnen.

Artikel 3. Diese Zustimmung kann nicht verweigert werden, wenn Oesterreich das lombardisch-venetianische Königreich geräumt und wenn andererseits Preussen ein österreichisches Territorium, im gleichen Werth wie das lombardisch-venetianische Königreich, in Händen haben wird.

Nr. 5069.

ITALIEN. — Gesandter in Berlin (Graf Barral) an General La Marmora. — Bismarck wünscht, dass Italien vorangehe. — Telegramm.

Berlin, 19 mars 1866.

La médiation de l'Angleterre vient d'être proposée à la Prusse qui a refusé en chargeant son envoyé à Londres de déclarer qu'elle devait l'adresser à l'Autriche, le véritable agresseur et le violateur du traité de Gastein. ‖ En me faisant part tout à l'heure de cet incident, Bismarck, qui était dans un état de violente surexcitation, m'a tout-à-coup demandé si l'Italie serait disposée à déclarer immédiatement la guerre à l'Autriche, en ajoutant que dans ce cas la Prusse suivrait aussitôt aprés, en la déclarant de son côté. ‖ J'ai répondu que je ne pensais pas que le Gouvernement du Roi fût disposé à prendre la responsabilité d'une initiative qui dans les circonstances actuelles me paraissait avant tout appartenir à la Prusse; mais qu'au surplus lui seul était appelé à se prononcer sur une aussi grave question. ‖ En supposant, ai-je ajouté, que l'Italie se décidât à prendre l'offensive, vous engageriez-vous par un traité formel à la prendre non pas aussitôt après, mais le lendemain? ‖ A cette question j'ai vu parfaitement Bismarck hésiter, et il a fini par me dire: il faudrait que je consultasse une dernière fois le Roi, et s'il refusait je lui offrirais ma démission. ‖ Bismarck m'a ensuite posé la question si nous pourrions lui prêter l'appui de notre marine dans la Mer du Nord, où il suppose que les

Nr. 5069. Italien. 19. März 1866.

Nr. 5069. Italien. 19. März 1866.

armements de la flotte autrichienne à Pola et à Trieste ont pour but de la faire arriver pour écraser la marine prussienne, évidemment inférieure. J'ai de nouveau répondu que c'était encore là une question à laquelle je n'étais pas en état de repondre. || Veuillez écrire à votre Gouvernement pour avoir une réponse sur les deux questions, m'a dit alors Bismarck; et là-dessus nous nous sommes quittés. || Mon impression personnelle est que Bismarck se trouve dans une impasse produite par l'offre de médiation de l'Angleterre, qui y a ajouté sa désapprobation de la politique prussienne; pour en sortir Bismarck cherche à intervertir les rôles en tâchant de nous pousser les premiers contre l'Autriche avec l'espérance bien plus que la certitude d'entraîner le Roi. || Je crois que ce serait de notre part une politique extrêmement dangereuse et que moins que jamais nous devons prendre des engagements en présence d'éventualités aussi obscures et qui peuvent se terminer par une médiation étrangère ou par une reculade de la Prusse. || La Reine, la Reine douairière, la Princesse et le Prince Royal supplient le Roi de s'arranger avec l'Autriche, et comme ils supposent que l'audience du général Govone peut amener un engagement belliqueux, ils ont réussi déjà hier matin à la faire remettre sous prétexte d'indisposition.

Barral.

Nr. 5070.

ITALIEN. — Gesandter in Berlin an General La Marmora. — Neuer Vorschlag Bismarcks. — Telegramm.

Berlin, 20 mars 1866.

Nr. 5070. Italien. 20. März 1866.

Bismarck toujours plus agité vient de me proposer une nouvelle combinaison. || L'on signerait de suite un traité *d'alliance et d'amitié,* conçu en termes généraux, mais portant que certaines éventualités belliqueuses venant à se réaliser, l'on procéderait immédiatement à la signature d'un traité d'alliance *offensive et défensive,* stipulant action commune et engagement réciproque, de ne pas déposer les armes sans consentement mutuel et but atteint de part et d'autre. || Les termes de ce derniér traité devraient étre convenus dès à présent de manière à pouvoir être instantanément signé. || Il reste toujours la grave question de savoir celui des deux, qui devrait prendre l'initiative de l'agression contre l'Autriche. || Le Roi interrogé aujourd'hui a dit que ce devrait être l'Italie. J'ai dit à Bismarck qu'à mon avis ce devrait être la Prusse. || La difficulté est la même et il resterait à déterminer quelles éventualités belliqueuses engageraient la parole du Roi. || Le Roi est très-occupé des armements de l'Autriche, et le Gouvernement Prussien va immédiatement procéder à un achat considérable de chevaux, en attendant la mobilisation qui ne se ferait qu'après.

Barral.

Nr. 5071.

ITALIEN. — Gesandter in Berlin an General La Marmora. — Entwurf eines Offensiv- und Defensiv-Allianz-Vertrages. — Telegramme.

a.

Berlin, 27 mars 1866.

Nr. 5071. Italien. 27. März 1866.

Je vais télégraphier, le plus promptement possible, le texte complet, en six articles du projet *d'alliance offensive et défensive*, que j'ai discuté ce matin avec Bismarck. || Je supprimerai le préambule exprimé sur le but d'obtenir paix générale par satisfaction aux aspirations nationales. | Je commencerai immédiatement par l'article premier. || M. Bismarck désire que je sois muni le plus promptement possible des pleins pouvoirs nécessaires. La proposition de convocation du Parlement National a déjà été adressée par la Prusse à la Bavière; une circulaire prussienne en faisant part aux Gouvernements Allemands de l'état des rapports entre Vienne et Berlin, leur demande de déclarer pour qui ils se prononceront en cas de guerre. || Quoique l'Ambassadeur de France dise, qu'il n'a pas d'instructions. . . . .

Barral.

b.

Berlin, 27 mars.

Au Général La Marmora.

1. Il y aura amitié et alliance entre leurs Majestés le Roi de Prusse et le Roi d'Italie.

2. Si les négociations que Sa Majesté Prussienne vient d'ouvrir avec les autres Gouvernements Allemands en vue d'une réforme de la constitution fédérale conforme aux besoins de la nation allemande échouaient, et que Sa Majesté Prussienne serait mise en mesure de prendre les armes pour faire prévaloir ses propositions, Sa Majesté Italienne, après l'initiative prise par la Prusse des hostilités, aussitôt qu'elle en sera informée, en vertu du présent traité déclarera la guerre à l'Autriche et aux Gouvernements Allemands qui se seraient alliés à l'Autriche contre la Prusse.

3. A partir de ce moment, la guerre sera poursuivie par Leurs Majestés avec toutes les forces que la Providence a mises à leur disposition, et ni la Prusse, ni l'Italie ne concluront ni paix ni armistice sans consentement réciproque.

4. Ce consentement ne saura être refusé quand l'Autriche aura consenti à céder à l'Italie le Royaume Lombard-Vénétien, et à la Prusse des territoires équivalents au dit Royaume en population.

5. Ce traité expirera trois mois après sa signature si dans les trois mois le cas prévu à l'article second ne s'est pas réalisé, savoir que la Prusse n'aura pas déclaré la guerre à l'Autriche.

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27. März 1866.

6. Si la flotte autrichienne, dont l'armement s'exécute, quitte l'Adriatique avant la déclaration de la guerre, Sa Majesté Italienne enverra des vaisseaux suffisants dans la Baltique, qui y séjourneront pour être prêts à s'unir à la flotte prussienne quand les hostilités éclateront.

Barral.

Nr. 5072.

ITALIEN. — General La Marmora an den Gesandten in Berlin. — Annahme des Entwurfs, Forderung, das Trentin einzubeziehen. — Telegramm.

Florence, 28 mars 1866.

Nr. 5072.
Italien.
28. März 1866.

Mon impression générale sur projet traité est bonne et nous sommes d'accord en principe. Je dois aviser pourtant s'il convient de limiter l'engagement à 3 mois. || Je crois aussi nécessaire de comprendre *le Trentino,* où vallée supérieure de l'Adige dans le territoire que l'Autriche devrait nous céder, comme étant dans les limites naturelles de l'Italie. || En tout cas, le Roi étant absent, il me faudra deux ou trois jours, pour vous envoyer réponse catégorique et ensuite pleins pouvoirs.

La Marmora.

Nr. 5073.

ITALIEN. — Gesandter in Berlin an General La Marmora. — Bismarck weigert sich über das Trentin z verhandeln. — Telegramm.

Berlin, 30 mars 1866.

Nr. 5073.
Italien.
30. März 1866.

M. Bismark m'a dit que le Trentin faisant partie de la Confédération Germanique, il était impossible de stipuler à l'avance sa cession à l'Italie; mais ce qui ne pourrait pas se faire avant la guerre, pourrait parfaitement s'effectuer pendant ou après, surtout en adressant un appel aux populations.

Barral.

Nr. 5074.

ITALIEN. — Vertreter in Paris (Commendatore Nigra und Graf Arese) an General La Marmora. — Verhalten Frankreichs zum bevorstehenden Conflicte. — Briefauszüge und Telegramme.

a.

Paris, 24. März 1866.

Der Kaiser hat dem Prinzen Napoleon gesagt, wenn Italien die Initiative zum Krieg ergreifen würde, könne Frankreich ihm nicht helfen.

Nigra.

Nr. 5074. Italien. 24—30. März 1866.

b.

Der Herr Drouyn de Lhuys will sich nicht über die Möglichkeit eines Krieges aussprechen, er wiederholte mir, als ich ihn fragte, die officielle Phrase, wenn Italien Oesterreich angreift, wird es dies auf seine Gefahr und Verantwortung thun; wenn Oesterreich Italien angreift, so kann ich Ihnen sagen, dass die Vergangenheit für die Zukunft bürgt. Das ist das Verhalten, welches Frankreich beobachten wird.

Nigra.

c.

Paris, 30. März 1866.

Ich bin vom Kaiser ganz gut empfangen worden. Er hat mir gesagt, dass der Prinz Napoleon (welcher nach Italien reiste), von seiner Seite weder eine Instruction, noch einen Auftrag habe. Er finde die Unterzeichnung des Vertrages mit Preussen nützlich; aber er erklärte, diesen Rath als Freund und ohne irgend eine Verantwortlichkeit zu geben. || Er glaubt für den Augenblick nicht an die Wahrscheinlichkeit eines Arrangements zwischen Italien und Oesterreich. || Er hat mich ermächtigt, Ihnen das Alles zu telegraphiren. || Der König von Preussen spricht sich, nach den Nachrichten, welche der Kaiser aus Berlin erhalten hat, jeden Tag mehr für den Krieg aus.

Arese.

d.

Die Situation ist also diese. Wenn Italien die Initiative ergriffe, so thäte es dies auf seine Gefahr und Verantwortung, und der Kaiser räth uns nicht dazu. || Was die Vereinigung mit Preussen zu einer gemeinsamen und gleichzeitigen Aktion betrifft, so räth uns der Kaiser dies zu thun, aber dieser Rath enthält keine positive Verpflichtung. || Wenn Oesterreich uns zuerst angreifen würde, könnte Frankreich nicht umhin uns zu Hülfe zu kommen. || Der Kaiser sagte auch dem Prinzen Napoleon, dass dasselbe geschehen würde, wenn Preussen vertragsbrüchig einen Separatfrieden schliessen und Oesterreich über uns, nachdem wir allein gelassen wären, mit allen seinen Streitkräften

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herfiele. || In allen anderen Fällen wird der Kaiser, ohne aufzuhören wohlwollend gegen uns zu sein, auf jede Art seine volle Aktionsfreiheit bewahren, und sich je nach den Ereignissen verpflichten oder nicht verpflichten.

Nigra.

Nr. 5075.

ITALIEN. — General Govone an General La Marmora. — Zweifel, ob Bismarck es zum Kriege bringen werde.

Berlin, 2. April 1866.

Nr. 5075. Italien. 2. April 1866.

Der Graf Bismarck hat vielleicht einen Augenblick geglaubt, Oesterreich wolle die Initiative zu einem Bruch ergreifen, und obwohl eine so unvorhergesehene Krise schwer gewesen wäre, hätte er sich wahrscheinlich darüber gefreut. Aber die Illusion von einer österreichischen Initiative dauerte nicht lange. Man wusste bald, dass die österreichischen militärischen Massregeln von geringer Bedeutuag, und in der That reine Defensiv- und Vorsichtsmassregeln seien. Der Graf Bismarck wollte trotzdem Nutzen daraus ziehen und liess sie einige Tage lang in seinen Journalen vergrössern. Alles war für den Krieg. Man sprach von österreichischen Herausforderungen und von berechtigten preussischen Rüstungen . . . . . Sie sind nicht sehr bedeutend, und können entweder eine Vorsichtsmassregel oder ein Mittel sein, Oesterreich dahin zu bringen, ebenfalls zu rüsten, um dadurch zu jener verwickelten Situation zu gelangen, aus der man den Krieg hervorgehen lassen kann. || Der Graf Bismarck, in der Frage der Herzogthümer gebunden, wie er ist, würde, da er sie nicht mit Demonstrationen lösen kann, bis zum Kriege gehen, aber die ältesten Diplomaten in Berlin glauben, dass der König ihm nie bis zu diesem Punkte folgen würde; ja sie glauben sogar, dass eines Tages die Sendung eines Generals nach Wien den Streit abschneiden könnte. Man sagt auch, dass der General Münster bereits zu einer Mission nach Wien berufen sei. Der M*** W*** sagte mir, der Graf Münster sei nach Wien abgereist. Graf Bismarck leugnet allerdings das Vorhaben einer solchen Mission, und versichert, der General sei nach Florenz bestimmt. || Eine andere Schwierigkeit findet Graf Bismarck im Lande. Nicht blos die höheren Klassen, sondern auch die mittleren sind dem Kriege abgeneigt oder wenig günstig. Man ersieht diese Abneigung aus den Volksblättern. Das öffentliche Gefühl ist hier noch von Groll und Misstrauen gegen Frankreich inspirirt, während kein Hass gegen Oesterreich herrscht. Ferner verschafft auch der Kampf in der Kammer dem Grafen Bismarck Gegner, obwohl die Kammer weder viel Ansehen noch grosse Popularität besitzt. Man spricht in Berlin mit wenig Achtung von ihr und behandelt sie fast als eine Versammlung von Nichts bedeutenden Intriguanten.

Man sagt die Constitution sei für die Stimmung des öffentliches Geistes in Preussen zu fortschrittlich. Das sind Dinge, die uns in Erstaunen setzen, aber ein Körnchen Wahrheit enthalten müssen, Angesichts des Verhaltens des Ministeriums gegen die Kammer. || Bleibt noch das Heer. Nach Allem, was wir von den Offizieren gehört haben, schwärmt es nicht für den Krieg gegen Oesterreich. Es herrscht in ihm sogar Sympathie für die österreichische Armee. Ich weiss, dass, wenn einmal der Krieg erklärt ist, die Armee elektrisirt würde und wacker ihre Schuldigkeit thäte, aber sie ist kein Sporn und keine Stütze für die Politik, welche Graf Bismarck zur Geltung bringen will. || Er findet sich daher fast isolirt oder wenigstens wenig unterstützt und hat mit allen oben auseinandergesetzten Schwierigkeiten zu kämpfen, weshalb man bisweilen zu der Vermuthung kommt, dass er, von solchen Schwierigkeiten überwältigt, die Partie aufgeben werde. Immerhin ist er unzweifelhaft ein sehr bedeutender Mann, mit grossen Hilfsmitteln, und eisernem Willen und verdient zu reussiren. Aber sagen, dass er reussiren werde, sei es, indem er in der Frage der Herzogthümer einen friedlichen Sieg erringt, sei es, indem er die Dinge zum Kriege treibt, wäre sehr gewagt, er müsste denn von Aussen Impulse und Hilfsmittel finden . . . . .

Nr. 5075. Italien. 2. April 1866.

Govone.

Nr. 5076.

ITALIEN. — Gesandter in Berlin an General La Marmora. — Abschluss des Vertrags mit Preussen. — Telegramm.

Berlin, 8 avril 1866.

Nous venons de signer avec Bismarck traité d'alliance *offensive et défensive.* || Sur le désir de Roi on a supprimé le passage faisant mention à la fin de l'article deux . . . . . Le Général et moi pensons que cette suppression était aussi dans nos intérêts. || Un protocole signé à part stipule que le traité restera secret[1]).

Nr. 5076. Italien. 8. April 1866.

Barral.

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[1]) La Marmora sagt, dass obwohl aus dieser Clausel der Geheimhaltung nicht eine absolute und beständige Verpflichtung erwachsen könne, er sich doch enthalten wolle, den Wortlaut des Vertrags mitzutheilen, da alle folgenden Minister bisher das Stillschweigen vorgezogen hätten. Der Eingang des Vertrags lautete nach einem spätern Citate La Marmora's:

„Leurs Majestés le Roi d'Italie et le Roi de Prusse, animées du même désir de consolider les garanties de la paix générale, en tenant compte des besoins et des aspirations légitimes de leurs nations, ont, pour régler les articles d'un traité d'alliance

Nr. 5077.

ITALIEN. — General Govone an General La Marmora. — Bismarcks Haltung gegenüber dem österreichischen Abrüstungsvorschlag.[1])

Berlin, 21. April 1866.

Nr. 5077. Italien. 1. April 1866.

Graf Barral frug den Conseil-Präsidenten, was Preussen auf die im Laufe des Tages von Wien gekommene Note geantwortet habe, welche die Zurücknahme der von Oesterreich getroffenen militärischen Massregeln für den 25. laufenden Monats unter der Bedingung vorschlug, dass die Abrüstung Tags darauf beginne. - Der Conseil-Präsident antwortete: die Sache verhält sich nicht ganz so. Oesterreich erklärt, dass es am 25. anfangen werde, seine Truppen in die alten Stellungen zurückzuziehen, und erwartet, dass Preussen an demselben Tage, oder am darauf folgenden Tage beginne, seine militärischen Massregeln zurückzunehmen. Es ist schwer, auf diesen Vorschlag abschläglich zu antworten, bemerkte Graf Bismarck. Wir haben jedoch noch keinen Entschluss gefasst, sondern werden wahrscheinlich antworten, dass wir gesonnen sind, Oesterreich in den Stellungen, die es seinen Truppen geben wird, Schritt für Schritt zu folgen, d. h. bei der Zurückberufung eines jeden Bataillons von den angrenzenden Provinzen werden wir die Reserve-Mannschaften, welche zur Verstärkung unserer Bataillone berufen sind, entlassen und werden diese Entlassungen nach den Rückbewegungen der österreichischen Bataillone Schritt für Schritt reguliren. Uebrigens ist die Verstärkung, die wir unseren Bataillonen gegeben haben, von keiner Bedeutung . . . . || Das alles aber sagte der Conseil-Präsident in einer Weise, die zu erkennen gab, dass er mit sich selbst noch nicht in's Reine gekommen war, und man konnte nicht einmal erkennen, ob er überhaupt die Absicht habe, in seiner Antwort, die er Oesterreich gebe, sich darüber zu äussern, oder ob er es sich bloss vorbehielt, in der praktischen Ausführung der Abrüstung so zu Werke zu gehen. || Das aber fügte Graf Bismarck hinzu, dass er mit denen, welche eine friedliche Miene machten, um die öffentliche Meinung in Europa für sich günstig zu stimmen, darin um die Wette laufen wolle, ferner, dass man aber am Ende keine so grosse Bedeutung dieser öffentlichen Meinung beilegen dürfe, welche durch energisches Handeln modificirt werden könne; und dass, wenn man auf diese Weise Oesterreich Alliirte verschaffte, wir auch Alliirte hätten und allenfalls noch andere finden könnten. || Auf die Frage unseres Gesandten, ob es wahr sei, dass die Mittel- und

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offensive e défensive, nommé pour leurs plénipotentiaires munis de leurs instructions savoir" etc.

Den übrigen Inhalt des Vertrags müssen wir aus dem Telegramm Nr. 5071. b. abnehmen. A. d. R.

[1]) Vgl. Staatsarchiv Bd. X Nr. 2256. A. d. R.

Kleinstaaten als Vorbedingung für jede Verhandlung über die deutsche Reform, die Abrüstung aufgestellt hätten, erklärte der Ministerpräsident, dass die Staaten zweiten Ranges noch nicht geantwortet, sondern ihre Repräsentanten sich erst gestern zu Augsburg versammelt hätten, um sich über das Verhalten zu besprechen, welches man dem preussischen Vorschlag gegenüber zu beobachten habe. || Der Eindruck, den der Ministerpräsident in diesem kurzen Gespräch, welches wegen seines Gesundheitszustandes nicht länger fortgesetzt werden konnte, obwohl er umhergeht und arbeitet, auf den Grafen Barral und auf mich machte, war der, dass er sichtlich durch die Wendung der Sachlage entmuthigt war. . . . . . || Was die Rüstungen Preussens betrifft, von denen man so viel Aufsehens macht, so blieben dieselben immer noch in den Ew. Excellenz berichteten, d. h. nur wenig beträchtlichen Grenzen; acht- bis zehntausend Pferde für Artillerie, das ist das Wesentliche, dann Einberufung von zehn- bis fünfzehntausend Mann Infanterie, die sich auf sechs Divisionen vertheilen. || Graf Barral theilte mir das Telegramm Ew. Excellenz mit, worin Sie mir Vollmacht geben, Berlin zu verlassen. Ich danke Ihnen. . . . . . || Uebrigens hört mit der bevorstehenden Abrüstung auch das Interesse auf, etc.

Nr. 5077. Italien. 21. April 1866.

Govone.

Nr. 5078.

ITALIEN. — General La Marmora an den Gesandten in Berlin. — Mittheilung, dass Oesterreich rüste, aber nicht Italien. — Telegramm[1]).

Florence, 26 avril 1866.

On doit savoir à Berlin que depuis 4 jours l'Autriche rappelle toutes ses réserves et se met en Vénétie sur pied complet de guerre au lieu de commencer à désarmer le 25. || Le prétexte qu'on allègue à Vienne, que l'Italie a rappelé des réserves et concentré des troupes à Plaisance et Bologne, est inqualifiable. || Voyez ce que le Gouvernement Prussien pense de tout ceci et ce qu'il compte faire.

Nr. 5078. Italien. 26. April 1866.

La Marmora.

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[1]) Hierauf folgt im Buche die Circulardepesche vom 27. April mit der Ankündigung italienischer Gegenrüstungen, Staatsarchiv Bd. XII Nr. 2487. Vgl. auch Bd. X Nr. 2257 und 2259. A. d. Red.

Nr. 5079.

ITALIEN. — Gesandter in Paris an General La Marmora. — Unzufriedenheit des Kaisers über die italienischen Rüstungen.

Paris, 1. Mai 1866.

Nr. 5079. Italien. 1. Mai 1866.

Gestern Abend beim Empfange in den Tuilerien trat der Kaiser zu mir, als er mich sah, und sprach: „Es war wohl der Mühe werth, mich um Rath zu fragen, um dann gerade das Gegentheil von dem zu thun, was ich anrieth." || Ich setzte dem Kaiser vorläufig die Gründe auseinander, welche die Regierung gezwungen hätten, zu rüsten; nämlich die drohende Haltung Oesterreichs, die von ihm getroffenen militärischen Massregeln, die kaum vor Ausbruch der Feindseligkeiten ergriffen zu werden pflegen; den offensiven Character dieser Massregeln, denn zur Defensive genügten das Festungsviereck und die gewöhnlichen Garnisonen; den Mangel einer strategischen Fronte seitens Italiens; die weite Entfernung der französischen Hilfstruppen im Falle eines Angriffs von Seiten Oesterreichs; endlich die öffentliche Meinung in Italien, welche gebieterisch verlangte, dass die Regierung für die Sicherheit des Staates Sorge trage. Diesen letzten Grund liess der Kaiser gelten; was aber den Angriff von Seiten Oesterreichs betrifft, so behauptet der Kaiser, das sei unbegründet, da Oesterreich wiederholt erklärt habe, dass es keineswegs beabsichtige, Italien anzugreifen. || Der Kaiser bemerkte noch, es sei wünschenswerth, dass, wenn der Bruch geschieht, derselbe vom Norden, nämlich von Deutschland, kommen solle. Er empfahl Klugheit und nichts zu übereilen. || Die französische Regierung ist schon im Voraus mit den Interpellationen beschäftigt, die am Dienstag in den gesetzgebenden Körper werden eingebracht werden. Unsere Rüstungen machen ihre Situation schwieriger. || Man wird von ihr eine ausdrückliche Erklärung verlangen über die Haltung, die sie Italien gegenüber einnehmen wird. || Wenn Italien nicht gerüstet hätte, wäre eine Antwort für Frankreich leichter gewesen. Es hätte vielleicht gesagt: wenn Oesterreich Italien angreift, so wird sich dem Frankreich sogar mit den Waffen widersetzen; wenn hingegen Italien zuerst angreift, so mag es dasselbe auf eigene Gefahr hin thun. Aber angesichts der Rüstungen, welche die Freunde des Friedens aus Interesse als gleichzeitig oder fast gleichzeitig ausgeben, wird der französischen Regierung die Antwort erschwert werden. || Das ist der Grund, weshalb man es hier missbilligt hat, dass Italien Ordre gegeben hat, sofort zu rüsten . . . . .

Nigra.

Nr. 5080.

ITALIEN. — General Govone an General La Marmora. — Differenz mit Preussen über die Tragweite des Vertrages vom 8. April. — Telegramme.

a.

Berlin, 2 mai 1866.

Nr. 5080. Italien. 2. Mai 1866.

Bismarck m'a dit qu'on a décidé en principe d'augmenter l'armement. Le conseil de généraux voudrait acheter tous les 50,000 chevaux pour l'artillerie, munitions et cavalerie de réserve, tandis que le Roi toujours hésitant veut armer en moindre proportion. || La décision ne sera prise que dans deux ou trois jours au plus tard. || Pour connaître l'extension qu'on donne ici aux engagements pris avec nous, j'ai dit au comte de Bismarck que l'Autriche et nous serions prêts dans un mois au plus tard, et qu'alors la guerre pouvait éclater en Italie, et lui ai demandé si la Prusse ne *fait* pas mieux ses calculs pour ses armements, et si elle sera prête à déclarer la guerre à l'Autriche d'après le traité d'alliance, si l'Autriche la déclare à l'Italie. || Il m'a dit que le Roi *ne donne pas au traité cette portée et qu'il ne croyait pas que cette obligation fût réciproque, d'après le texte littéral.* || J'ai ajouté alors, si on ne pourrait pas compléter les stipulations et y introduire complète réciprocité dans une convention militaire. || *Il m'a dit que le Roi refuserait de s'engager à déclarer la guerre à l'Autriche dès qu'elle éclaterait en Italie;* ne voulant pas nous encourager à pousser les choses à bout. || Que cependant le Ministère Prussien croyait que cette éventualité serait forcément amenée par les circonstances, et attacherait son existence à ne pas laisser engager la lutte entre l'Italie et l'Autriche sans prendre part au même moment. || Il m'a autorisé à le déclarer à Votre Excellence en ajoutant de nous fier à la force des circonstances et des intérêts Prussiens les plus graves, même si les hésitations du Roi ne lui permettraient pas d'obtenir sa signature. || Je lui ai demandé si la Prusse serait disposée à sacrifier cinq millions pour la Hongrie. Il répondit qu'on ne connaît ni le pays ni les hommes, qu'il craignait de jeter l'argent inutilement surtout que formalités minutieuses du Gouvernement Prussien rendaient absolument impossible de détourner une telle somme, même pour un objet de cette importance.

Govone.

b.

Berlin, 2 mai 1866.

Bismarck m'a fait appeler en toute hâte ce soir. || J'ai soumis au Roi, m'a-t-il dit, les deux questions que vous m'avez posées hier soir. || 1. Que ferait la Prusse si Italie attaque Autriche? || 2. Que ferait Prusse si Autriche attaque Italie? || Et je lui ai dit qu'à la seconde question j'avais

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répondu que la Prusse entrerait en lutte contre Autriche. Le Roi a complètement approuvé cette réponse. || Quant à la première question le Roi conseille franchement Italie de s'abstenir de toute attaque. || J'ai demandé à Bismarck s'il avait pris un parti quant aux armements Prussiens. || Bismarck répondit qu'on décidera demain en conseil des Ministres; que cependant le Roi avait dit aujourd'hui qu'il ne trouvait plus personne autour de lui qui ne lui dît qu'il trahirait son pays s'il n'armait pas. Ainsi Bismarck croit que demain il va signer ordre mobilisation. || J'ai encore demandé à Bismarck son avis à retenir pour impossible un arrangement entre Prusse et Autriche qui nous laissât isolés. || Il m'a répondu qu'aucune concession de l'Autriche ne pourrait désormais compenser la Prusse des inconvénients d'un arrangement. || Que toutefois si l'Autriche faisait des concessions qu'on ne peut absolument refuser, en ce cas il nous préviendrait à temps et loyalement, et qu'en aucun cas les arrangements ne seraient tels que l'Italie pût se trouver seule vis-à-vis de l'Autriche armée.

Govone.

Nr. 5081.

ITALIEN. — General La Marmora an den Gesandten in Berlin. — Italienische Auffassung des Vertrages. — Telegramm.

Florence, 2 mai 1866.

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Dites au comte Bismarck que l'Italie n'a nullement l'intention d'attaquer Autriche. || Mais pour le cas d'une aggression Autrichienne contre l'Italie, l'alliance offensive et défensive *oblige* la Prusse à engager de son côté les hostilités et à les poursuivre. || Comme nos engagements envers la Prusse, et la politique que nous devons suivre en conséquence seraient la cause unique de l'attaque de l'Autriche contre nous, je ne vois pas comment le Roi de Prusse pourrait se croire libre envers l'Italie, ni comment Prusse pourrait se soustraire aux obligations réciproques de l'alliance offensive et défensive. || Ne laissez aucun doute que le Gouvernement du Roi est ici parfaitement maître de la situation, et qu'il n'y a pas à craindre que ce soit nous, mais au contraire l'Autriche qui pourrait pousser les choses à bout.

La Marmora.

Nr. 5082.

ITALIEN. — Gesandter in Paris an General La Marmora. — Oesterreich bietet die Abtretung Venetiens an. — Telegramm.

Paris, 5 mai 1866.

Nr. 5082. Italien. 5. Mai 1866.

Empereur m'a fait appeler aujourd'hui. Il m'a dit que l'Autriche lui fait proposition formelle de céder la Vénétie, à la condition que l'on laisserait Autriche libre de se dédommager sur la Prusse. . . . . || La cession serait faite à la France, qui la rétrocéderait à l'Italie sans conditions. || Empereur m'a demandé si nous pouvions rompre engagement avec la Prusse. || Je vous envoie courrier pour vous expliquer les détails. || En attendant, veuillez garder secret absolu, et réfléchir bien mûrement, car la chose en vaut la peine. || Je vous prie de me télégraphier votre première impression. || J'ai mis Empereur confidentiellement au courant de nos derniers rapports avec la Prusse.

Nigra.

Nr. 5083.

ITALIEN. — General La Marmora an den Gesandten in Paris. — Antwort auf den österreichischen Vorschlag. — Telegramm.

Florence, 5 mai 1866.

Nr. 5083. Italien. 5. Mai 1866.

Reçu votre importante dépêche. || J'attends avec impatience courrier. || Ma première impression est que *c'est une question d'honneur et de loyauté de ne pas nous dégager avec la Prusse.* || Surtout qu'elle vient d'armer et de déclarer à toutes les Puissances qu'elle attaquera l'Autriche si l'Autriche nous attaque. || Mais comme le traité expire le 8 juillet, on pourrait arranger la chose avec un Congrès. || L'Empereur n'oubliera pas, qu'il nous a conseillé le traité avec la Prusse. || Vous ne me dites rien du Congrès, dont il est question à Londres.

La Marmora.

Nr. 5084.

ITALIEN. — Gesandter in Paris an General La Marmora. — Schriftlicher Bericht über den österreichischen Vorschlag.

Paris, 5. Mai 1866.

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Gestern Abend liess mich der Kaiser in die Tuilerien rufen. Ich habe Sie durch den Telegraphen von dem Inhalte der Mittheilungen des Kaisers

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benachrichtigt; ich will Ihnen jetzt diese Unterredung in all' ihren Einzelheiten mittheilen. || Der Kaiser sagte mir, Oesterreich habe ihm folgenden Vorschlag gemacht: || „Oesterreich ist bereit, Venetien abzutreten, sobald es sich . . . . bemächtigt hat. Frankreich und Italien würden versprechen, Preussen nicht zu unterstützen und neutral zu bleiben. Venedig würde an Frankreich abgetreten werden, welches es ohne Bedingung wieder an Italien abtreten würde. Wohlverstanden würde das Festungsviereck in der Abtretung mit einbegriffen sein. Italien würde eine bestimmte Summe Geldes zahlen, welche zum Bau österreichischer Festungen längs der neuen Grenze zwischen Oesterreich und Italien bestimmt wäre.“ || Ich fragte den Kaiser, ob dieser Vorschlag wirklich ernsthaft sei. Er antwortete mir, derselbe sei durchaus formell.| Er sagte mir, er habe darauf geantwortet, habe sich jedoch Bedenkzeit genommen und erklärt, dass die Abtretung jedenfalls vor der Besetzung Schlesiens durch Oesterreich erfolgen müsse. Oesterreich habe auf diese Bemerkung, die man als Gegenvorschlag betrachten kann, noch nicht geantwortet. Der Kaiser verlangte, ich solle ihm den Wortlaut des Vertrages wiederholen, und fragte, ob es uns möglich sei, uns von den mit Preussen eingegangenen Verpflichtungen loszusagen. Ich sagte ihm, dass ich Ihnen im Vertrauen und insgeheim schreiben werde. Indessen theilte ich ihm die Erklärung mit, welche uns unlängst der König von Preussen über die Auslegung mittheilen liess, die er dem Vertrage gibt und wonach er sich nicht für verpflichtet hielt, Italien zu unterstützen, wenn dieses von Oesterreich angegriffen werden sollte. Diese Erklärung schien dem Kaiser sonderbar, und er sagte, man müsse erwägen, ob in Anbetracht derselben die italienische Regierung nicht berechtigt sei, den Vertrag zu kündigen. || Nun ist es Ihre Sache, diese neue Seite der Frage ernstlich zu erwägen. Ich erwarte Ihre Antwort, um sie dem Kaiser mitzutheilen. Die Sache ist eine äusserst empfindliche; das alles muss Jedem, den König und Sie ausgenommen, geheim bleiben. || Der Vorschlag Oesterreichs war von der Ueberzeugung ausgegangen, dass im Kriegsfalle Italien und Preussen zusammengegangen wären und dass Frankreich zu Gunsten Italiens neutral geblieben wäre. Dieser Vorschlag, in so weit es uns möglich wäre, darauf einzugehen, ist nicht frei von Nachtheilen; vor Allem würden wir, wenn Venedig an Frankreich abgetreten würde, diesem gegenüber neue Verpflichtungen eingehen. Oesterreich würde nach dem Kriege eben so stark zur Eroberung . . . . . und noch feindseliger als vorher gegen Italien sein. Wir würden uns mit Preussen verfeinden, und ganz Deutschland würde diese feindlichen Gesinnungen theilen. Unsere Armee und vielleicht auch unser Land würde unzufrieden darüber sein. Frankreich (ich spreche von der Nation und nicht vom Kaiser, der gegen Italien stets freundlich gesinnt war und es bleiben wird) wird uns diese neue Wohlthat in unerträglicher Weise fühlen lassen. Endlich würden wir, wie ungehörig und undankbar auch das Benehmen Preussens gegen uns sein mag, dem Vorwurf des Treubruchs nicht entgehen können. || Auf der anderen Seite aber bietet uns das Zögern

Preussens und seine letzte Erklärung keine Gewissheit, ob es zuerst den Krieg erklärt, oder ob es uns folgt, falls wir gezwungen wären, ihn zu beginnen, oder ob es sich infolge eines Angriffs von Seiten Oesterreichs in einen Krieg einlässt. Allein Krieg zu führen, scheint mir so gefährlich, dass ich wirklich nicht weiss, ob es zulässig ist. Wenn aber der Krieg unterbliebe, so wäre unsere Lage in politischer und finanzieller Hinsicht unheilvoll. Endlich darf man auch nicht die Unzuverlässigkeit des Kriegsglückes ausser Acht lassen. Das Kaiserreich Oesterreich besitzt noch solche militärische Elemente, dass die Möglichkeit einer Niederlage Italiens, mag es allein stehen oder mit Preussen vereinigt sein, in den Bereich der voraussehbaren Fälle gehört. || Diese Erwägungen, die einen wie die anderen, sind von ausserordentlicher Bedeutung; ich gebe sie Ihnen an, damit Sie dieselben überlegen und prüfen. || Geben Sie jedoch wohl auf den Umstand Acht, dass Oesterreich sich zur Abtretung Venedigs nur bereit zeigt, um sich zu entschädigen mit . . . ., so dass es mit der einen Hand die Abtretung bestätigen und mit der anderen das Schwert ziehen würde; beide Thatsachen würden gleichzeitig sein. || Ich bitte Sie, mir Ihre Antwort durch einen besonderen Courier zukommen zu lassen, indem sehr viel daran gelegen ist, dass diese Correspondenz nur sicheren Händen anvertraut werde. Ich würde Ihnen verbunden sein, wenn Sie mich durch den Telegraphen von der Abreise des Couriers in Kenntniss setzten.

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Nigra.

Nr. 5085.

ITALIEN. — Memoire des Generals Govone über die von Oesterreich angebotene Abtretung Venetiens, für den Commandeur Nigra redigirt.

[Auszug.]

Paris, 7 mai 1866.

Les armements prussiens se poursuivent en ce moment avec rapidité. Les cinq corps d'armée qui, d'après les ordres émanés les premiers jours de mai, devraient se mettre sur pied de guerre, ont reçu postérieurement pour instruction de se mobiliser selon les ordonnances et règlements qui concernent *les cas urgents*, et on attendait à Berlin pour le 8 ou 9 la complète mobilisation des 4 corps restants, qui étaient en train de se mettre sur le pied de *préparation à la guerre.* Avant la fin du mois toute l'armée prussienne de 300 mille combattants, sera sur pied de guerre, et les concentrations sur la frontière seront terminées. || Ces mesures, ainsi que les déclarations de Monsieur de Bismarck, et des principaux officiers de l'État-Major prussien, ne laissent aucun doute, qu'on est désormais fermement décidé à

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commencer les hostilités dans un court délai de temps, et peut-être espère-t-on pousser l'Autriche à prendre elle-même l'offensive. Aussi dans le cas qu'aucun grave événement n'intervienne, les premières batailles seront livrées dès le commencement de juin. || Dans cet état des choses, avec un traité signé avec la Prusse, quel parti l'Italie doit-elle prendre selon ses propres intérêts, vis-à-vis des dernières propositions autrichiennes de céder la Vénétie? Peut-elle, sans compromettre gravement son honneur, accepter ces propositions? || La question est en même temps, d'intérêt matériel et d'intérêt moral. || Mettons le cas, que la lutte s'engage entre l'Autriche, l'Italie et la Prusse et nulle autre grande puissance n'intervienne. . . . .
|| L'armée prussienne, bien conduite, non dispersée sur de longues lignes, aidée enfin par la fortune, pourra gagner une ou deux batailles sur l'armée autrichienne; mais si les méfiances envers les États secondaires, si d'autres circonstances devaient retenir loin du point décisif de la lutte une partie considérable de l'armée prussienne, dans ce cas la supériorité numérique de l'Autriche pourrait faire pencher la victoire de l'autre côté. Or une ou deux batailles perdues en Silésie, ouvriraient la route de Berlin, cette frontière manquant de ces grands points d'appui, de ces grandes forteresses, dont une armée a besoin pour se reformer. || Dans ce cas l'Italie verrait bientôt se diriger vers elle, une partie des troupes autrichiennes engagées aujourd'hui vers le nord, et cela avant qu'elle se fût rendue maîtresse d'une des principales forteresses du quadrilatère. La lutte pourrait devenir inégale. || Sans doute lorsque de pareilles éventualités, même si elles étaient peu probables, sont pourtant possibles, la responsabilité d'un gouvernement qui s'y serait exposé en refusant les propositions de la cession de la Vénétie, serait fort lourde si son honneur ne lui fait pas un devoir absolu de refuser. || On entre ici dans le côté moral de la question, et pour bien l'apprécier il faudra rappeler quelques circonstances des négociations relatives à notre traité avec la Prusse, et à l'interprétation qu'on a voulu y donner. || La première rédaction du traité appartient à S. E. le comte de Bismarck. Dans l'introduction aux articles il l'avait d'abord appelé: traité d'alliance *offensive et défensive.* Lorsque S. E. le général de La Marmora approuva le texte, et que les plénipotentiaires se réunirent pour le signer, le comte de Barral et moi remarquâmes que cette appellation avait disparu et qu'on y avait substitué traité *d'alliance et d'amitié.* || Le comte de Barral soutint la première rédaction qui ne fut acceptée par le comte de Bismarck qu'avec difficulté et après avoir soutenu longtemps que tel était le texte primitif envoyé à Florence pour être examiné. On alla chercher ce texte qui avait été écrit par M. de Barral sous la dictée du comte de Bismarck, et ce dernier fut forcé de rétablir le texte; de telle sorte qu'on différa jusqu'au soir la signature. || Lorsque, par suite des notes échangées entre Vienne et Berlin, il fut convenu que les deux puissances désarmeraient le 25 et 26 avril, et que l'Autriche tourna contre l'Italie de très-sérieuses mesures militaires, ayant eu une

audience du comte de Bismarck, je lui demandais si la Prusse serait prête, d'après le traité conclu avec nous, à entrer en campagne pour la fin de mai, les armements de l'Autriche en Vénétie et les nôtres qui en étaient la conséquence forcée, faisant croire à la probabilité d'une rupture vers cette époque. || Le comte de Bismarck, tout en déclarant qu'il était de l'intérêt prussien de ne pas nous laisser seuls, ajouta cependant que la Prusse ne se tenait pas pour légalement engagée envers nous, par le traité à déclarer la guerre à l'Autriche, si celle-ci nous attaquait; il en faisait une question d'intérêt prussien, mais non pas une question de loyale interprétation d'un traité qui étant appelé d'alliance *offensive et défensive*, doit sans doute avoir pour conséquence d'engager également les deux parties. Cette circonstance rapprochée de l'essai qu'il avait fait de supprimer dans le texte du traité l'appellation d'alliance offensive et défensive, montre que le Président du Conseil voulait se laisser la porte ouverte à nous quitter si cela lui convenait. || J'eus soin dans cette conversation de dire à S. E. le comte de Bismarck, que puisqu'il interprétait ainsi le traité, il aurait été convenable et équitable de compléter ces stipulations par une convention militaire pour établir la réciprocité des engagements, de telle sorte que nous ne puissions en aucun cas nous trouver seuls à la merci de l'Autriche. Le comte Bismarck répéta, que nous pouvions être rassurés par le propre intérêt de la Prusse, et fit les plus amples déclarations, mais en ajoutant que *jamais le Roi ne signerait une stipulation qui metterait la Prusse à la merci de l'Italie.* Le jour suivant il me fit appeler et me dit qu'ayant rapporté au Roi notre conversation de la veille, Sa Majesté avait approuvée ses réponses. || Je dis alors à M. de Bismarck, s'il ne pourrait pas nous arriver que par suite de propositions autrichiennes un arrangement n'intervînt entre la Prusse et l'Autriche, et nous fussions en ce cas laissés seuls vis-à-vis de l'Autriche; M. de Bismarck répondit: que désormais aucune proposition autrichienne pourrait être assez favorable pour être aux yeux de la Prusse l'équivalent des conséquences qui résulteraient dans l'avenir pour la Prusse de l'abandon de l'Italie; il ajouta d'autres considérations d'intérêt, mais il termina en disant que toutefois, si des concessions à ne point pouvoir être refusées étaient faites; dans ce cas il nous préviendrait à temps. Il ne repoussait donc pas absolument la possibilité d'un arrangement avec l'Autriche, mais seulement il en mettait en doute la probabilité, et s'il ajouta qu'en aucun cas nous ne serions laissés en face de l'Autriche irritée et armée, c'est que les bruits de cession de la Vénétie lui sont parvenus, ce qui le force à nous ménager. || D'après tout ce qui vient d'être rappelé, on peut en tirer cette conclusion que la Prusse, si ses intérêts le lui conseillaient, ne se refuserait pas à un arrangement avec l'Autriche, aujourd'hui encore, et se basant sur une subtile interprétation du texte de notre traité, se croirait en droit, quoiqu'elle ne le juge pas dans ses intérêts, ni de son honneur, de nous abandonner si l'Autriche nous attaquait aujourd'hui que nous nous sommes engagés pour les intérêts prussiens

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autant que pour les nôtres. || Nous pourrions par conséquent, avec un égal fondement prétendre, que si l'Autriche était la première à attaquer la Prusse, nous serions déliés de tout engagement, car le texte littéral du traité dit à peu près: || *„Si Sa Majesté le Roi de Prusse . . . . . . était mis en mesure de prendre les armes, dans ce cas l'Italie, d'après l'initiative prise par la Prusse, déclarera la guerre à l'Autriche."* Or, Monsieur de Bismarck prétend, que le traité n'a d'autre portée que celle contenue littéralement dans les mots: *après l'initiative prise par la Prusse.* Il dit que, puisque M. de Barral a tenu à ajouter ces mots au texte primitif, lui, comte de Bismarck, a cru que c'était nous qui voulions exclure tout autre cas, même celui d'une *initiative prise par l'Autriche contre l'Italie,* et il a insisté avec moi sur ce point lorsqu'il me donna son interprétation de la portée du traité, que j'ai enoncée plus haut. A le prendre au mot, on n'aurait donc qu'à pousser l'Autriche à attaquer la première, pour que nous fussions dégagés, aussi bien que la Prusse prétend l'être envers nous, dans le cas analogue. || Cependant serait-il honorable de suivre la Prusse dans ces subtilités? Je ne veux pas examiner cette question. Sans doute si nous le faissions, si nous acceptions un arrangement avec l'Autriche, nous ne ferions que ce qu'en cas de sa convenance ferait sans doute la Prusse. || Mais pour nous aussi, il y a des considérations d'une autre nature, et peut-être en spéculant sur l'avenir, en pensant à l'humiliation de la Prusse, qui serait la conséquence de notre abandon, en pensant à l'augmentation de la puissance autrichienne en Europe, on peut se demander si on ne faciliterait pas des coalitions dangereuses alors, par notre conduite d'aujourd'hui. C'est ce qui fait réfléchir aussi M. de Bismarck, devant l'éventualité d'un arrangement avec l'Autriche, qu'il n'accepterait qu'à la condition d'être très-convenable. || Maintenant si le cas, que j'ai examiné, d'une lutte entre l'Autriche, la Prusse et l'Italie, devait se modifier par l'intervention de la France avec nous, alors l'équilibre serait tellement rompu, et la victoire tellement sûre et prompte, que dans ce cas, la lutte conviendrait à l'Italie, infiniment mieux qu'une transaction, pour des considérations de toute évidence. || Il s'agit donc, à mon avis, de savoir si la France intervient, avant de prendre toute décision sur la proposition autrichienne. || M. de Bismark a toujours parlé de l'attitude de la France, comme favorable à sa politique, quitte à se faire payer après sa bienveillance. M. de Bismarck désire connaître les intentions et les désirs de l'Empereur; il en a parlé à M. de Barral; il lui a dit de tâcher d'en savoir quelque chose par M. le commandeur Nigra; il a même donné lieu de croire qu'il serait disposé à lui abandonner les rives du Rhin; ayant été informé par ses agents que l'Empereur négociait avec l'Autriche et que l'Autriche lui cédant, croit-il, la Vénétie, et l'engageant même à s'emparer de la rive gauche du Rhin, M. de Barral, à qui il en parlait, s'écria: „Mais l'Autriche ne se compromettrait pas ainsi avec l'Allemagne en sacrifiant des pays, qui appartiennent à la Confédération!" M. de Bismarck fit une geste qui paraissait vouloir dire: moi aussi,

je les céderais. || Seulement, ajoutait-il, on ne peut comprendre ce que veut l'Empereur. On peut croire que si M. de Bismarck pouvait penser que l'Italie accepterait peut-être la Vénétie et que cette province est offerte, il s'empresserait de faire à la France les plus amples concessions, car il n'aurait pas d'autre issue, une entente avec l'Autriche étant moins probable et moins convenable pour lui. || En conclusion si nous voulions nous dégager de la Prusse, on pourrait à la rigueur le faire par les mêmes subtilités, dont la Prusse se serait, d'après ses aveux, servie envers nous, s'il lui avait convenu. || Seulement nous pouvions encourir l'improbation d'une partie de l'Europe, et paraître avoir manqué à la bonne foi, tandis que celui, qui comme la Prusse n'a eu que l'intention d'y manquer, échappe plus facilement à cette improbation. Cependant si la France ne s'en mêlait pas, le Gouvernement du Roi pourrait difficilement prendre la responsabilité de refuser la cession, et engager une lutte, dont l'issue n'est pas certaine. || Comme d'ailleurs, il paraît que la France est disposée à s'engager dans la lutte, avant de prendre nous-mêmes un parti sur l'acceptation de la cession de la Vénétie, il serait convenable d'avoir le conseil de l'Empereur lui-même, après l'avoir édifié par tous les détails que précédent, et savoir s'il ne veut pas pressentir les dispositions de la Prusse à son égard, avant de se décider à être l'intermédiaire d'une cession, qui le compromet avec la Prusse et le rend solidaire de l'Autriche.

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Govone.

[*Gleich beim ersten Auftauchen der Idee eines Congresses, nämlich am 8. Mai, erklärte ich, nachdem ich die Befehle des Königs entgegengenommen, den Gesandten von England, Frankreich, Russland und Allen, welche kamen, um mich zu consultiren, wörtlich, dass „Italien den Congress annehme, jedoch unter der Bedingung, dass die Kriegsrüstungen nicht eingestellt würden.*[1])].

Nr. 5086.

ITALIEN. — General La Marmora an den Gesandten in Paris. — Widerspruch gegen eine Abtretung Venetiens an Frankreich. — Telegramm.

Florence, 14 mai 1866.

De Londres on me mande, que le bruit s'était répandu de la cession de la Vénétie à la France. || Comme cela est d'accord avec les projets de l'Empereur, je dois vous dire, de tâcher que si la Vénétie est cedée, elle nous

Nr. 5086. Italien. 14. Mai 1866.

[1]) S. das Rundschreiben vom 11. Mai, Staatsarchiv Bd. XII Nr. 2489. A. d. R.

Nr. 5086. Italien. 14. Mai 1866. revienne par le suffrage universel, et non par une cession à la France, ce qui serait humiliant, et ferait un effet déplorable en Italie, ayant plus de 300 mille hommes prêts à marcher. || La France aurait une part tout aussi glorieuse, en décidant l'Autriche à appliquer le suffrage universel. || La situation de l'Italie serait alors satisfaisante vis-à-vis de l'Europe et particulièrement de l'Autriche, dont les relations à venir avec l'Italie, seraient compromises par la rétrocession. || Franchement, moi qui ai toujours cherché à faciliter une solution pacifique de la question Vénitienne, je préférerais la guerre à une telle solution.

La Marmora.

Nr. 5087.

ITALIEN. — General Govone an General La Marmora. — Bericht über eine Unterredung mit dem Grafen von Bismarck[1]).

[Auszug.]

Berlin, 22. Mai 1866.

Nr. 5087. Italien. 22. Mai 1866. Excellenz! — In Berlin angekommen am 20. Abends, habe ich Se. Excellenz den Grafen von Bismarck von meiner Ankunft für den Fall, dass er mich sprechen wollte, in Kenntniss gesetzt. || Der Ministerpräsident hat mich gestern Abend empfangen. || Ich habe ihm von dem wahrhaft befriedigenden Stande der Rüstungen in Italien und der Vortrefflichkeit des öffentlichen Geistes Kenntniss gegeben. Ich fragte, bis zu welchem Punkte die preussischen Rüstungen gelangt und welche Vorkehrungen für die künftigen Ereignisse getroffen seien, da es Ew. Excellenz von Interesse sei, den wahrscheinlichen Zeitpunkt kennen zu lernen, in welchem die Feindseligkeiten von dieser Seite eröffnet werden könnten. || Graf von Bismarck antwortete mir, dass die preussischen Rüstungen auf dem Punkte des Abschlusses angelangt und binnen weniger Tage gänzlich vollendet seien; der Krieg könne dann losbrechen, sei es nun durch einen feindlichen Beschluss des Bundestages, sei es wegen Rüstungen, welche Hannover oder einer der Kleinstaaten, welche die preussische Monarchie in zwei Theile scheiden, in Angriff nehmen wollte. Dann könne Preussen zu den ersten Feindseligkeiten gezwungen werden; „jedoch,“ fügte er bei, „da taucht jetzt der Vorschlag des Congresses auf, welcher neue Hindernisse in den Weg legen wird.“ Uebrigens glaubt Graf von Bismarck nicht an einen Erfolg des Congresses, zu welchem er die Einladung noch nicht erhalten hatte. || Ich fragte, was er von der Haltung der Mittel-

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[1]) General Govone war inzwischen, wie aus Nr. 5085 ersichtlich, in Paris gewesen. A. d. R.

staaten und vor Allem Bayerns in dem bevorstehenden Conflicte denke. Er entgegnete mir, Württemberg sei sehr kriegerisch und feindlich gesinnt; aber wegen Bayerns habe er gute Hoffnung und glaube, dass es wenigstens neutral bleibe. Uebrigens denkt auch er, dass die Armeen dieser Staaten schwerlich den Muth haben werden, ausserhalb ihrer Grenzen Feindseligkeiten zu unternehmen, und dass alsdann die erste Schlacht gegen Oesterreich, wenn sie glücklich ausfiele, bewirken würde, dass ihnen die Waffen aus den Händen fielen. || „Ernstere Schwierigkeiten," sagte mir Graf von Bismarck, „unsere wirklichen Besorgnisse, betreffen die Haltung Frankreichs. Es schweigt Preussen gegenüber, und indess sind alle seine Vertreter bei den Höfen zweiten Ranges in österreichischem Sinne thätig. Freilich sagt man, dass diese Agenten die Politik des Herrn Drouyn de Lhuys treiben und vielleicht selbst übertreiben, und dass die Politik des Kaisers eine andere sei; bei all' dem ist es für uns nichts weniger als beruhigend, den Krieg zu beginnen unter der Drohung von 300,000 Mann, welche uns in den Rücken fallen können, wenn wir recht im Gemenge sind." || Ich erwiederte: Aber ich glaubte, Ew. Excellenz hätten mit dem Kaiser Absprechungen und Ausgleiche getroffen, und in diesem Falle kann man ihm blindlings vertrauen, denn er ist ein vollendeter Gentleman und täuschte niemals seine Freunde. Wir können hiefür Zeugniss geben. || Graf von Bismarck antwortete, indem er seine Worte studirte: „Vor sechs Monaten, als ich mit dem Kaiser über die gegenwärtigen Ereignisse sprach, schien er mit einigen Ausgleichungen, welche Preussen gleichfalls conveniren, zufrieden; aber jetzt, wo wir am Vorabende der Lösung stehen und es uns darauf ankäme, positivere Verträge einzugehen, ist er für jegliche Erklärung ganz unzugänglich." || Ich nahm dann das Wort, um zu bemerken: Aber ganz Europa weiss, welches die Ansprüche Frankreichs sind, und vielleicht sind dies auch die Desiderien des Kaisers. || Graf von Bismarck erwiederte: „Es handelt sich schliesslich für Preussen in dieser ganzen Angelegenheit darum, ein Uebergewicht in einem Theile Deutschlands zu erwerben und letzteres mit gegebenen Banden an sich zu fesseln. Kann es, Preussen, kann er, der König, um solche Vortheile zu erlangen, ausgedehnte Provinzen mit deutschem Blute an Frankreich abtreten? Es würde dem Kaiser viel besser anstehen, ... zu erwerben." || Ich erwiederte, dass die Erwerbung . . . . ., welches ein so blühendes nationales Leben und ein so reges Selbstständigkeitsgefühl besitze, so schwierig sein könnte, dass es den Kaiser nicht danach gelüstete, und dass es andererseits eine unbedingte Nothwendigkeit sei, unter den gegenwärtigen Umständen Frankreich auf unserer Seite zu haben. Glauben Ew. Excellenz nicht, fügte ich hinzu, dass die deutsche Frage, sobald sie einmal in Bewegung gesetzt, vor Allem mit Hilfe von Volksversammlungen, sehr weit über

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das gegenwärtige Programm hinausgelangt, und dass im Hintergrunde des Gemäldes die Annexionen stehen? Dergestalt könnte Preussen weit mehr gewinnen, als es durch einige Gebietsabtretungen zu verlieren hätte. Ich erinnerte an das Beispiel von Italien und setzte hinzu, dass, wenn die Abfindungen, womit jetzt Frankreich befriedigt werden könnte, nicht geeignet erschienen, den Gegenstand von Stipulationen zu bilden, welche eingestanden werden dürften, man sie dem Kaiser ins Ohr flüstern könnte. || Graf von Bismarck hörte dies alles an, ohne irgendwie sich erstaunt zu zeigen, und erwiederte, dass im Momente einer Krisis, nach einer Niederlage es leicht wäre, solche Vorschläge und derartige Concessionen an Frankreich zu machen, um dessen bewaffneten Beistand zu erlangen, dass es aber weit schwieriger wäre, für die Abtretung eines deutschen Gebietstheiles die Billigung der öffentlichen Meinung des Landes zu erlangen, ohne die Rechtfertigung dringender Noth. || Ich war bemüht, dieser ganzen Unterredung den Schein einer academischen Abschweifung zu geben, wie sie es in der That war, wozu die Worte des Ministerpräsidenten zufällig den Anlass gegeben hatten. Aber der Eindruck, welcher in mir zurückblieb, war, dass schliesslich der Widerstand des Grafen von Bismarck, gedrängt von den Umständen, in welchen er sich eben befindet und von welchen das Schicksal seines Landes abhängt, weder unüberwindlich, noch vielleicht allzu schwer zu brechen sei. || Hier sprach der Ministerpräsident mit mir über die Frage der Donaufürstenthümer wie von einem neuen Element, welches für Frankreich einen Gegenstand von Interesse bilden könnte; aber ich habe die Auffassung des Grafen von Bismarck nicht gut verstanden und wollte mich nicht aufhalten, um in dieser Hinsicht weitere Fragen zu stellen. Ich habe mir nur seine Erklärung gemerkt, dass der Fürst von Hohenzollern so zu sagen desertirt sei, um sich nach Bukarest zu begeben, und dass die Fürstenthümer sich für stark genug hielten, um einer türkischen Intervention Widerstand zu leisten, dass aber Preussen, wenn der Fürst verjagt würde, davon keine Kenntniss zu nehmen brauche. || Von da an wandte sich die Unterhaltung auf die militärische Lage Preussens, Oesterreichs und Italiens. . . . .
|| So endete meine Audienz. Heute begab ich mich zu General Moltke. Er bestätigte mir dieselben Dispositionen, von welchen oben die Rede war. . .
|| Der Eindruck, welchen ich von der Unterredung, die ich mit General Moltke hatte, mitnahm, war der, dass er Vertrauen auf den Ausgang hat und glaubt, dass man in den ersten Tagen des Juni (wenngleich es infolge des Congressvorschlages den Anschein hat, als ob Verzögerungen eintreten) handgemein werden müsse, da eine Situation, wie sie vom 4. Juni an durch diese ungeheure schlagfertige Heeresmacht geschaffen ist, unmöglich sich in die Länge ziehen lässt. || Das ist im Augenblick der Stand der Dinge. Leider hat sich die öffentliche Stimmung der Geister in Preussen nicht in fühlbarer Weise gehoben, nicht einmal angesichts einer so entscheidenden Situation, welche eine Lebensfrage des Landes ist. || Was die Armee betrifft, so glaube

ich, dass der König, welcher das Commando übernehmen wird, demnächst eine Proclamation erlassen wird, um den Geist und die Ergebenheit des Heeres zu befestigen.

Nr. 5087. Italien. 22. Mai 1866.

Govone.

Nr. 5088.

ITALIEN. — Gesandter in Paris an General La Marmora. — Die Congressaussichten[1]).

Paris, 24. Mai 1866.

Nr. 5088. Italien. 24. Mai 1866.

Unsere diplomatische Situation ist gut. Mag Frieden oder Krieg kommen, die Frage wegen Venetien ist dermalen im öffentlichen Bewusstsein gewonnen. Kann man es auf friedlichem Wege und in ehrenwerther Weise im Schoosse des Congresses oder durch besondere Verhandlungen erlangen, so wird eine solche Lösung, wie ich hoffe, in Italien willkommene Aufnahme finden. Wenn die friedlichen Versuche Schiffbruch leiden, was wahrscheinlicher ist, so muss man es auf die Entscheidung der Waffen ankommen lassen, und Gott möge uns helfen! . . . . Uebrigens widersteht die Vereinigung deutscher Provinzen mit Frankreich und die Schöpfung eines rheinischen Venetiens auch dem Kaiser. Aber dieser Widerwille wäre nicht unüberwindlich. || Andererseits sagt er, dass er nicht wolle, dass man einen für ihn vortheillosen Krieg führe. Der Kaiser ist daher der Idee eines Congresses mit grösserem Feuer zugethan. Er sagte mir, dass er glaube, dass Oesterreich, erschreckt von der Vorstellung, in der Ablehnung ganz allein zu stehen, sich vielleicht zur Annahme entschlösse. Die Einladung wird diesen Abend von Paris abgehen. || Die erste Formel wurde infolge der Bemerkungen Russlands modificirt, um die Annahme Oesterreichs eher zu ermöglichen. . . . . || Herr Drouyn de Lhuys sagte mir jedoch, dass die drei neutralen Mächte sich wohl bewusst sind, dass die Abtretung Venetiens verhandelt werde. || Wir dürfen bei Annahme des Congresses durchaus keine Schwierigkeiten machen, sobald unsere Frage dort behandelt wird, was nothwendig die Prüfung der einzig möglichen Lösung, nämlich der Abtretung, in sich schliesst. || Ich schliesse diesen Brief, wie ich ihn begonnen, mit der Versicherung, dass unsere diplomatische Lage ausgezeichnet ist. Man darf sie nicht verderben. Es ist daher nothwendig, den Congress ohne Abrüstung anzunehmen. Wir müssen durchaus Herr unserer Action bleiben und dürfen uns nicht von den Freiwilligen und vom Geschrei auf der Strasse und in Volksversammlungen hinreissen lassen, in welchem

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[1]) Vgl. weiter über den Congress und das Scheitern desselben Staatsarchiv Bd. XII Nr. 2492—2494 und Bd. XI Nr. 2284. A. d. R.

Nr. 5088. Italien. 24. Mai 1866. Punkte ich das grösste Vertrauen auf Ihre Energie und Klugheit setze. || Endlich dürfen wir nicht die Initiative der Feindseligkeiten ergreifen, sondern müssen sie Preussen oder Oesterreich überlassen.

Nigra.

Nr. 5089.

ITALIEN. — General La Marmora an den Gesandten in Berlin. — Italien will nicht zuerst angreifen. — Telegramm.

Florence, 3 juin 1866.

Nr. 5089. Italien. 3. Juni 1866. Le comte d'Usedom me demande au nom du comte Bismarck, s'il est vrai que l'Italie ait l'intention d'attaquer le 10 Juin. || Dites au comte Bismarck que l'Italie n'a jamais pensé à attaquer; d'autant moins que nous avons accepté le Congrès. || Certes que si l'Autriche maintient ses prétentions, je ne vois pas trop quel but peut avoir le Congrès. || Mais en tout cas, après avoir accepté, il faut avant tout persuader les Puissances neutres que tout le tort est du côté de l'Autriche.

La Marmora.

Nr. 5090.

ITALIEN. — Gesandter in Berlin an General La Marmora. — Antwort. — Telegramm.

Berlin, 3 juin 1866.

Nr. 5090. Italien. 3. Juni 1866. Bismarck sait parfaitement que nous n'attaquerons pas les premiers, ni le 10, ni plus tard. Mais il cherche à nous pousser en avant dans l'espoir d'entraîner à notre suite le Roi toujours indécis et qui à son insu avait encore ces jours derniers entamé avec l'empereur d'Autriche des négociations secrètes, qui ont avorté. || Je verrai ce soir Bismarck et je lui ferai la communication prescrite. || La réponse Autrichienne au sujet du Congrès n'est pas encore parfaitement connue, mais si elle contient la moindre réserve, Bismarck fera que les Puissances neutres la regarderont comme un refus et ne prolongeront pas les négociations à l'avantage de l'Autriche. || La proposition de l'Autriche à Francfort, est considérée comme le gage du concours armé des États secondaires. Mais le Roi a été tellement blessé de cette violation du traité de Gastein, qu'il serait très-possible que la Prusse y répondît par l'occupation du Holstein, ce qui amenerait infailliblement la guerre. || La Garde part aujourd'hui pour Görlitz, où se fait la grande concentration de l'armée.

Barral.

Nr. 5091.

ITALIEN. — General Govone an General La Marmora. — Bericht über seine Abschiedsaudienz bei Graf Bismarck.[1])

Berlin, 3. Juni 1866.

Nr. 5091. Italien. 3. Juni 1866.

Excellenz! — Da ich den Grafen Bismarck um eine Abschiedsaudienz vor meiner Rückkehr nach Italien gebeten hatte, empfing mich der Ministerpräsident gestern Abend 9 Uhr im Garten des Staatsministeriums und dehnte die Unterhaltung bis 10 Uhr aus. Ich meldete Sr. Excellenz die bevorstehende Ankunft des Obersten Avet, eines der angesehensten Officiere der italienischen Armee, dem der König die Aufgabe zugedacht habe, im Kriegesfalle dem preussischen Heere zu folgen. Ich fügte hinzu, dass ich bei der täglich steigenden Verwicklung der Dinge darauf hätte verzichten müssen, zu warten, bis ich selbst jenen höheren Officier vorstellen konnte. Graf Bismarck erwiderte: „Nun, wer wird das Feuer an das Pulver legen, Preussen oder Italien?“ — Ich fragte den Ministerpräsidenten, ob er die Redaction der österreichischen Antwort auf den Congressvorschlag genau kenne? ob die preussische Regierung auf diese Antwort irgend eine neue Entschliessung hinsichtlich ihrer Betheiligung an der Conferenz getroffen habe? und ob er, Graf Bismarck, darauf verzichtete, nach Paris zu gehen? || Der Ministerpräsident entgegnete mir: || „Ich glaube die österreichische Antwort genau zu kennen; dieselbe schliesst jede Verhandlung aus, welche auf eine Aenderung des Machtstandes der Theilnehmer hinausliefe; wenn man nun nicht über die Abtretung Venetiens und nicht über die Abtretung der Elbherzogthümer unterhandeln kann, so bleibt die Conferenz nutzlos. Wir hoffen übrigens bis morgen officiell den österreichischen Text zu kennen, um uns zu entscheiden. Hoffentlich wird Frankreich Angesichts dieser Antwort, Angesichts der Zwangsanleihe in Venedig und der letzten Action Oesterreichs, welche die Frage der Herzogthümer an den Bundestag verschleppt und den Gasteiner Vertrag verletzt, den festen Vorsatz Oesterreichs erkennen, sich gegen jeden Ausgleich zu stemmen und nicht weitere, für uns nutzlose und schädliche Unterhandlungen fortzuführen suchen. Dieses Auftreten Frankreichs würde für uns ein Beweis seiner Loyalität gegen uns sein; wenn es dagegen anders handelte, würde es uns in Betreff seiner Absichten argwöhnisch machen. Aus einem Grunde wäre ich nur gern nach Paris gegangen. Ich hätte gewünscht, mit dem Kaiser zu sprechen, um das Maximum der Concessionen kennen zu lernen, welche er unsererseits für Frankreich verlangt.“ || Ich fragte, ob über dem Rheine kein Landestheil vorhanden sei, wo eine Abstimmung zu Gunsten der Annexion an Frankreich irgendwie glücken könnte. Graf Bismarck erwiderte: „Keiner; die französischen Agenten selbst, welche das Land bereisten, um die Stimmung kennen zu lernen, berichteten

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[1]) Vergl. über diesen Bericht die nachstehende redactionelle Note auf S. 60 und Nr. 5104. A. d. R.

Nr. 5091.
Italien.
3. Juni 1866.

alle, dass keine Abstimmung, wenn sie nicht durchaus erkünstelt wäre, gelingen könne. Niemand liebt die Regierung oder die auf dem eigenen Boden herrschende Dynastie; aber alle sind Deutsche und wollen Deutsche bleiben; so erübrigte nur, Frankreich zu entschädigen . . . ." || Ich warf ein, dies sei äusserst schwierig; aber wenn man den Volkswillen nicht geltend machen könne, so liesse sich vielleicht doch ein anderes Princip in Anwendung bringen, z. B. jenes der natürlichen Grenzen; ich fügte gleich bei, ich wolle nicht auf das ganze linke Rheinufer anspielen; aber gibt es denn gar keine andere geographische Linie, welche für Frankreich Werth haben könnte? || Graf Bismarck sagte: || „Ja, es wäre die Mosel. Ich bin," fuhr er fort, „viel weniger Deutscher als Preusse, und würde kein Bedenken tragen, die Abtretung des ganzen Landes zwischen dem Rhein und der Mosel an Frankreich zu unterschreiben: Pfalz, Oldenburg, ein Theil des Preussischen Gebiets etc. Der König jedoch . . . . würde die schwersten Skrupel empfinden und würde sich nur in einem alleräussersten Augenblicke dazu entschliessen: wenn er nämlich auf dem Punkte stände, Alles zu verlieren oder Alles zu gewinnen. Um den Geist des Königs für irgend einen Ausgleich mit Frankreich günstig zu stimmen, wäre es auf alle Fälle nothwendig, die Minimalgrenze seiner Ansprüche zu erfahren. Denn wenn es sich um das ganze linke Rheinufer, um Mainz, Coblenz, Köln handelte, dann wäre es vorzuziehen, sich mit Oesterreich zu verständigen und die Herzogthümer und viele andere Dinge aufzugeben." || Aber, meinte ich, mit Oesterreich ist kein anderer Ausgleich möglich, als eine Capitulation; denn die streitigen Fragen greifen in seine vitalsten Interessen und in seine Zukunft ein; darum kann es nicht transigiren. || „Allerdings", antwortete Graf Bismarck; „aber die öffentliche Meinung in Deutschland würde dem Könige diese Capitulation verzeihen, wenn sie durch die Absicht gerechtfertigt wäre, kein deutsches Gebiet an eine auswärtige Macht abzutreten." Dann bemerkte er weiter: „Der König habe die Hoffnung auf Frieden noch nicht fahren lassen; er habe in der letzten Zeit mit Oesterreich geheime Verhandlungen wegen eines Ausgleiches gepflogen, und zwar ohne sein (des Grafen Bismarck) Wissen. Glücklicherweise waren sie bestimmt, zu scheitern, und so wird der König am besten überzeugt sein, dass es nicht möglich sei, mit Oestereich sich auf eine passende Art zu verständigen auch ganz unabhängig von meiner Person. Es befindet sich augenblicklich noch der . . . . in Dresden, um den Frieden zu verhandeln." || „Kaum tauchte der Vorschlag der Pariser Conferenz auf, als der König den Ausmarsch der Garde von Berlin suspendiren wollte, um einen Beweis seiner aufrichtigen friedlichen Bestrebungen zu geben. Heute hatten ich und viele Generale zu kämpfen, bis wir den König bestimmen konnten, die Garde ausrücken zu lassen . . . . und die Garde rückt morgen aus." || „Und die rheinischen Corps?" fragte ich. „Die stehen seit drei Tagen an der sächsischen Grenze", war die Antwort des Ministerpräsidenten. || Hier ging Graf Bismarck zu dem Gegenstande über, mit welchem

er seine Unterhaltung begonnen hatte, nämlich wer von beiden, Preussen oder Italien, die Feindseligkeiten eröffnen würde. Er sagte, für ihn würde es sehr schwer halten, den König zur Offensive zu bewegen; der König habe das religiöse, ja abergläubische Bedenken, er dürfe die Verantwortung für einen europäischen Krieg nicht auf sich laden; und während man die Zeit verlöre, vollendeten Oesterreich und die Mittelstaaten ihre Rüstungen und verminderten die Wahrscheinlichkeit des Erfolges für Preussen. Das Interesse Italiens sei dergestalt gleichfalls compromittirt, wenn Oestereich Sieger bliebe. || „Italien", fuhr er fort, „kann leicht den Krieg vom Zaun brechen und nach Bedürfniss selbst eine Provocation von Seiten irgend eines verführten croatischen Corps bereiten, und es kann sich dann fest darauf verlassen, dass wir am nächsten Tage die Grenze überschreiten." || Ich entgegnete, Italien sei in der delicatesten Lage; in voller Sitzung des Corps Legislatif habe es zu Paris erklären lassen, es würde nicht die Initiative zu irgend einem Angriff ergreifen, und nachher in allen Tonarten diese Erklärung wiederholt. Italien müsse sehr mit der öffentlichen Meinung Frankreichs rechnen und dürfe die freundschaftliche Action des Kaisers Napoleon zu seinen Gunsten nicht schwierig oder unmöglich machen, indem es durch seine Unklugheit jene öffentliche Meinung gegen sich kehrte, welche über den Kaiser Richter sei. Italien müsse Europa gegenüber seine Besonnenheit und Mässigung um so deutlicher klar legen, je weniger man in manchen Theilen Europa's den wahren geordneten Zustand Italiens und die absolute Autorität der Regierung über das ganze Land, über das Heer wie die Freiwilligen kennte. || Graf Bismarck verweilte noch lange bei diesem Gegenstande und bat mich, bei Ew. Excellenz und dem Könige darüber zu sprechen, damit König Wilhelm, sollten wir den Krieg zuerst anfangen, sich entschliesse, die den Gegnern durchaus günstigen Verzögerungen abzubrechen, besonders jetzt, wo alle Mittelstaaten sich für Oesterreich erklärt hätten, oder daran seien, es zu thun. Ich versprach ihm, seine Wünsche vorzulegen, ohne jedoch der geringsten Hoffnung Raum zu geben, dass sie berücksichtigt würden; darauf schloss er mit den Worten, sobald er den König dazu bewogen hätte, die Offensive zu ergreifen, werde er dies telegraphisch auf verschiedenen Linien nach Florenz melden. Was die Haltung Oesterreichs betreffe, so sei dieselbe bis jetzt durchaus defensiv und zuwartend, und deute nicht auf einen nächstbevorstehenden Angriff. || Das ist im Allgemeinen der Inhalt meiner letzten Unterredung mit dem Grafen Bismarck; und der Eindruck auf mich ist, dass er alle Mittel suchen wird, um die Sache zu beschleunigen und die Feindseligkeiten bald beginnen zu können. || Und vor Allem ist für die Regierung zu Florenz die Erklärung des Grafen Bismarck über die Unterhandlungen beachtenswerth, welche König Wilhelm noch in den jüngsten Tagen zum Zwecke eines friedlichen Ausgleiches mit Oesterreich pflog, sowie über die augenblicklich schwebenden. Diese wie jene werden zwar schwerlich Erfolg haben können; aber die einzige, wenn auch entfernte Möglichkeit eines solchen Ausgleiches muss Italien zu ernstem

Nr. 5091. Italien. 3. Juni 1866. Nachdenken bewegen, und es bei Zeiten auch die unberechenbaren Folgen bemessen lassen.

Govone.

Nr. 5092.

ITALIEN. — Gesandter in Paris an General La Marmora. — Eindruck der österreichischen Antwort auf den Congressvorschlag in Paris. — Telegramm.

Paris, 4 juin 1866.

Nr. 5092. Italien. 4. Juni 1866. Ce n'est que hier au soir que Drouyn de Lhuys a eu communication de la réponse autrichienne[1]), dont il avait été informé comme vous de Londres et Pétersbourg avant que par Vienne. || En présence de cette réponse, le prince Gortschakoff et lord Clarendon ont déclaré le Congrès impossible. || Drouyn de Lhuys vient d'en faire autant. Il télégraphie aujourd'hui aux représentants de France que du moment, où l'Autriche a déféré la question des Duchés à la Diète Germanique et exclus la question Vénitienne, et que la question de la réforme fédérale n'est qu'éventuelle, la Conférence ne pourrait plus se réunir utilement; que la France se dégage et rend justice à l'esprit de conciliation et d'empressement des autres puissances. || L'Empereur est furieux contre l'Autriche. || Drouyn de Lhuys conseille de ne faire aucun mouvement en avant, et il m'assure que tel était l'avis de l'Empereur. || Goltz m'a dit que les hostilités en Allemagne commenceraient par l'occupation du Holstein.

Nigra.

Nr. 5093.

ITALIEN. — Gesandter in Paris an General La Marmora. — Neue Vorschläge Frankreichs in Wien.

Paris, 5. Juni 1866.

Nr. 5093. Italien. 5. Juni 1866. Der Herzog von Grammont ist nach Wien abgereist, nachdem er vorher eine lange Conferenz mit dem Kaiser und mit Drouyn de Lhuys gehabt hatte. Wie mir der Prinz Napoleon sagte, welcher Grammont vor seiner Abreise sah, ist dieser Gesandte beauftragt, dem Wiener Cabinet folgende Vorschläge zu unterbreiten: || Oesterreich garantirt die Abtretung Venetiens, falls es siegreich gegen Preussen ist; der Kaiser verspricht seinerseits die Neutralität

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[1]) S. Staatsarchiv Bd. XI Nr. 2284. A. d. R.

Nr. 5093. Italien. 5. Juni 1866.

Frankreichs; was Italien anbelangt, so kann dieses den Krieg anfangen, wie wenn kein Abkommen bestände; denn der Kaiser würde nur für sich Verpflichtungen übernehmen. || Was Frankreich betrifft, so haben wir seine Intervention in Italien nicht verlangt, und die preussisch-französische Allianz lässt sich meines Dafürhaltens nicht vor der Eröffnung der Feindseligkeiten verwirklichen; auf alle Fälle wird sie sehr schwierig sein; denn einerseits widerstrebt es Preussen, deutsche Provinzen abzutreten, und andererseits ist der Kaiser dermalen nicht geneigt, sich Schwierigkeiten zu verschaffen. || Jetzt scheint mir der Zeitpunkt gekommen, dem Aufschub ein Ende zu machen. Oesterreich hat den Fehler begangen, dass es den Congress zurückwies und die Frage der Herzogthümer an den Bundestag brachte. Ich denke, Sie müssen jetzt entschieden auf Bismarck einwirken, dass er den Krieg erklärt; denn wir dürfen auf keinen Fall die Initiative ergreifen. || Aller Wahrscheinlichkeit nach wird der Kaiser noch vor Allem die Antwort auf die Vorschläge Grammont's abwarten. Fällt diese Antwort bejahend aus, so wird er ruhig bleiben. Ist dagegen die Antwort verneinend, so wird er sich von Neuem besinnen. || Ich werde mich bemühen, den Kaiser zu treffen, wenn diese Antwort angelangt sein wird, und Ihnen telegraphisch berichten. Auf alle Fälle scheint es mir, dass der Krieg für uns unter guten Auspicien anfängt. Die von Schmitz eingesandten militärischen Nachrichten sind gut und haben den Kaiser, welcher nicht ohne Unruhe war, wieder beruhigt. || Schliesslich empfehle ich Ihnen an, auf die Gefahr hin, Sie zu verdriessen, Sie möchten es doch verhindern, dass die Freiwilligen irgend einen Act der Indisciplin oder Feindseligkeit verüben. || Ich sage hier Allen, dass die königliche Regierung vollständig die Situation beherrscht, und sage dies desto lauter, je weniger ich davon überzeugt bin.

Nigra.

Nr. 5094.

ITALIEN. — Gesandter in Berlin an General La Marmora. — Der König ist zum Kriege entschlossen. — Telegramm.

Berlin, 8 juin 1866.

Nr. 5094. Italien. 8. Juni 1866.

Les Princes sont repartis ce matin pour leurs destinations. || Le départ du Roi fixé d'abord à lundi est retardé de quelques jours. || Sa Majesté m'a dit, que le moment d'entrer en campagne, n'était plus qu'une question de jours; qu'il avait pleine confiance dans la justice de sa cause, et la bravoure de son armée; mais que la victoire était dans les mains de Dieu. || Heureusement, a-t-il ajouté d'un air ému, et en portant la main sur son coeur, j'ai la conscience nette. Longtemps l'on m'a accusé de vouloir la guerre dans des vues ambitieuses; mais maintenant après le refus de l'Autriche d'aller au Congrès, son

Nr. 5094. Italien. 8. Juni 1866.

indigne violation du traité de Gastein et les violences de sa presse, le monde entier sait quel est l'agresseur. || En me disant cela le Roi m'a paru décidé à ne pas différer longtemps le commencement de la lutte. Toutefois il y avait dans sa voix quelque chose de triste, indiquant clairement la décision d'un homme résigné, qui ne croit pas pouvoir faire autrement. || Au moment où finissait l'audience, comme j'exprimais à Sa Majesté, de la voir bientôt revenir victorieuse: La vie, comme la victoire, me répondit-elle en élevant les yeux, est entre les mains de Celui qui est là-haut. || Les Prussiens sont entrés hier en Holstein. || Les Autrichiens s'étaient déjà retiré à Altona. || La question est maintenant de savoir, si contrairement à la protestation, on maintiendra la convocation des États pour lundi. || La Prusse ne peut accepter un pareil affront, et en s'y opposant par la force, déterminera probablement une collision qui deviendrait le signal de la grande lutte sur la frontière de Saxe et de Silésie.

Barral.

Nr. 5095.

ITALIEN. — Gesandter in Berlin an General La Marmora. — Unzufriedenheit Bismarck's mit General Manteuffel. — Telegramm.

Berlin, 10 juin 1866.

Nr. 5095. Italien. 10. Juni 1866.

Bismarck s'est montré extrêmement irrité contre le baron Manteuffel, qui au lieu d'agir énergiquement contre les Autrichiens, en entrant dans le Holstein s'est laissé enguirlander par le général Gablentz, et a laissé échapper cette occasion de conflit. || Comprenez-vous cela? m'a-t-il dit. . . . . . || Enfin a-t-il ajouté, il y a encore la convocation des États, qui peut probablement, amener conflit. || Il faut encore attendre.

Barral.

Nr. 5096.

ITALIEN. — Gesandter in Berlin an General La Marmora. — Aeusserung des österreichischen Gesandten in Berlin. — Telegramm.

Berlin, 12 juin 1866.

Nr. 5096. Italien. 12. Juni 1866.

Je viens a l'instant de rencontrer le ministre d'Autriche, qui m'a abordé, et en m'annonçant son départ m'a dit: Nous ne serons pas toujours ennemis, et si comme je l'espère nous battrons la Prusse, je puis vous confier que nous nous arrangerons avec vous pour la cession de la Vénétie.

Barral.

Nr. 5097.

ITALIEN. — General La Marmora an den Gesandten in Paris. — Erbittet Instruction vom Kaiser. — Telegramm.

Florence, 12 juin 1866.

Nr. 5097. Italien. 12. Juni 1866.

Malaret vient de me communiquer un télegramme de Drouyn de Lhuys, et le Roi en reçoit un du prince Napoléon. || Il s'agit d'une dépêche de Grammont, qui assure que la Reine de Prusse écrivant à l'Empereur d'Autriche, l'aurait assuré que le Roi de Prusse lui avait donné sa parole, qu'il n'existait pas de véritable traité entre la Prusse et l'Italie, et que si l'Italie attaquait l'Autriche, la Prusse n'était pas tenue de la suivre. || Ce sera le cas de poser carrément la question à Bismark. || Mais comme celui-ci pourrait nous répondre, qu'il y a eu entre nous et l'Autriche des propositions pour la cession de la Vénétie, je désire savoir, si l'Empereur admet que nous puissions riposter, que l'Autriche nous fit réellement proposition de céder la Vénétie si nous restions neutres, mais que nous avons refusé pour rester fidèles au traité.

La Marmora.

Nr. 5098.

ITALIEN. — Gesandter in Paris an General La Marmora. — Antwort des Kaisers.

Paris, 12. Juni 1866.

Nr. 5098. Italien. 12. Juni 1866.

Heute war ich um zwei Uhr beim Kaiser. Zweck meines Besuches war, auf die Telegramme zu antworten, welche Sie mir in den letzten zwei Tagen geschickt haben, und worin Sie mich über die Anschauungsweise des Kaisers befragten. || Hier folgt, was ich theils aus dem Munde des Kaisers, theils auf anderen Wegen erfahren habe. || Als Oesterreich die Antwort auf die Einladung zum Congresse schickte, begleitete es dieselbe mit Instructionen, deren Inhalt ich Ihnen mit einer amtlichen Depesche übersandt habe. In diesen Instructionen liess Oesterreich die Möglichkeit einer Abtretung Venetiens durchblicken, sobald es mit den Waffen sichere und gleichwerthige Erwerbungen in Deutschland machte. || Der Kaiser nahm aus dieser Phrase Anlass, Oesterreich einige Vorschläge zu machen, und beauftragte hiermit den Herzog von Grammont, welcher sich auf Urlaub in Paris befand und sich dann in den letzten Tagen nach Wien begab. Sie werden sich erinnern, dass vor jetzt etwa sechs Wochen Oesterreich vorgeschlagen hatte, Venetien an Frankreich abzutreten, wenn es sich in den Besitz von . . . . . . gesetzt hätte, unter der Bedingung, dass der Kaiser Napoleon die Neutralität Frankreichs und Italiens garantire. || Der Kaiser ging auf den Vorschlag nicht ein, weil er damals die Neutralität

Nr. 5098. Italien. 12. Juni 1866.

Italiens nicht garantiren konnte. || Im Gegentheil beorderte er in Erwiderung des österreichischen Vorschlags den Herzog von Grammont, in Wien zu verlangen: || 1) dass Oesterreich verspreche, Venetien abzutreten, wenn es in Deutschland siege und Eroberungen mache; || 2) dass Oesterreich verspreche, auf alle Fälle den territorialen Status quo in Italien zu achten. || Wenn Oesterreich dieses verspräche, so würde der Kaiser neutral bleiben. || Die Antwort des Wiener Cabinets ist eingetroffen. Ich glaube nicht zu irren, wenn ich mittheile, dass Oesterreich ohne Vorbehalt versprach, den Status quo in Italien aufrecht zu erhalten, was die zweite an dasselbe gestellte Forderung ist. Was die erste Forderung betrifft, so war sie nicht verneinend, sie war aber deshalb auch nicht ausdrücklich bejahend; denn Oesterreich hätte gesagt, in dieser Beziehung würde es nichts unternehmen, ohne erst den Kaiser Napoleon zu befragen. || Der Letztere hielt diese Antwort für hinreichend um die Neutralität versprechen zu können, und versprach sie. || Der Kaiser sagte mir, der König von Preussen habe dem Kaiser von Oesterreich auf Ehrenwort versichert, dass er keinen Vertrag mit Italien geschlossen habe, und dass Preussen, wenn Italien zuerst Oesterreich angriffe, nicht verpflichtet sei, den Krieg zu erklären. || Bei dieser Gelegenheit fragte ich den Kaiser, ob er im äussersten Falle, und wenn es klar auf der Hand liege, dass uns kein anderes Mittel bleibe, es zum Kampf zu bringen, es nicht für nützlich und vielleicht auch für nothwendig halte, dass Italien die Initiative ergreife, selbstverständlich unter der Bedingung, dass es das förmliche Versprechen von Preussen habe, es werde ihm Tags darauf folgen. || Der Kaiser antwortete ohne Bedenken dass er dies nie rathen würde. Uebrigens traf, als ich gerade beim Kaiser war, die Nachricht ein, dass Oesterreich seinen Gesandten von Berlin abberufe. || Der Kaiser glaubt, dies lasse die Feindseligkeiten in nächster Nähe ahnen, und dann glaubt er mehr als je, dass wir einen groben Fehler begehen würden, wenn wir die Verantwortung für die ersten Feindseligkeiten auf uns nähmen. || Der Kaiser sagte mir ein Wort, das mir den weitesten Horizont eröffnete. Er meinte, während des Feldzugs könnte es wohl eintreten, dass es nützlich wäre, wenn Italien den Krieg nicht allzu energisch führte. Dagegen bemerkte ich dem Kaiser, dass wir den Krieg mit grosser Energie in Scene setzen würden, und dass wir die Zusicherungen Oesterreichs an Frankreich nicht kennten. || Wenn man uns im Laufe des Krieges Vorschläge mache, dann werde der Zeitpunkt eintreten, um das zu beobachtende Verhalten in Erwägung zu ziehen.

Nigra.

[*Wie ich schon gesagt habe, zeigt der Brief unseres Vertreters in Paris, dass der Kaiser, welcher uns nicht um den Widerruf des Vertrages im Interesse Oesterreichs zu bitten und noch weniger uns denselben aufzuerlegen wagte, doch gewünscht hätte, dessen Wirkungen zu beschränken und abzuschwächen; denn der weite Horizont, welchen das Wort des Kaisers ihm eröffnet*

hatte, konnte nichts Anderes sein, als die Möglichkeit, sich nach Beginn des Krieges mit Oesterreich zu verständigen oder den Krieg zum Scheine zu führen.]

Nr. 5098. Italien. 12. Juni 1866.

Nr. 5099.

PREUSSEN. — Gesandter in Florenz (Graf Usedom) an General La Marmora. — Mittel zur Insurrectionirung Ungarns.

Florence, 12 juin 1866.

Nr. 5099. Preussen. 12. Juni 1866.

Par un télégramme arrivé cette nuit, le comte Bismarck me fait savoir qu'il s'attend à un commencement des hostilités dans peu de jours. || Par rapport à l'affaire hongroise . . . .[1]) le comte de Bismarck m'ordonne en ce moment même de communiquer à Votre Excellence, que le Gouvernement est prêt à fournir une moitié des fonds nécessaires à l'affaire hongroise et slave, si le Gouvernement Italien veut se charger de l'autre. || On aurait besoin: 1. d'un million de francs pour le prime abord et les préparatifs; || 2. de deux millions pour le moment d'une entrée en campagne effective de la part des populations en question. || Ce serait donc pour chaque Gouvernement respectif un *million et demi.* || Le comte Bismarck, dans le cas que la proposition fût acceptée de la part du Gouvernement Italien, pour venir en aide à une entreprise d'un intérêt commun aux deux pays, ne sait pourtant comment faire parvenir avec la célérité nécessaire ces sommes à leur destination. Il serait fort obligé à Votre Excellence si elle voulait faire faire l'avance de la moitié prussienne par le trésor italien, et je suis autorisé dans ce cas de donner promesse officielle du remboursement par mon Gouvernement. || Comme il y a dans le quadrilatère tant de regiments croates, je crois qu'il importerait beaucoup, si on pouvait faire éclater le plus tôt possible un mouvement de l'autre côté de l'Adriatique.

Usedom.

Nr. 5100.

ITALIEN. — Gesandter in Berlin an General La Marmora. — Graf Bismarck über den Feldzugsplan[2]). — Telegramm.

Berlin, 15 juin 1866.

Nr. 5100. Italien. 15. Juni 1866.

Voici ce que Bismarck vient de me dire à l'instant sur la situation. || D'après le vote d'aujourd'hui la Diète de Francfort comme l'a déclaré notre

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[1]) Ueber die Ergänzung dieser Lücke ist zu vergleichen unten Nr. 5105 und Nr. 5106. A. d. Red.

[2]) Vgl. die Usedom'sche Note vom 17. Juni 1866. Staatsarchiv Bd. XV Nr. 3312. A. d. Red.

Nr. 5100. Italien. 15. Juni 1866.

représentant, a cessé d'exister pour la Prusse. || De plus ce vote est à nos yeux une véritable déclaration de guerre, et nous avons résolu immédiatement de les devancer et nous ouvrirons les hostilités mardi prochain. || Le secret des premières opérations militaires n'est pas le mien, et je ne puis vous le confier, mais il suffit pour le moment que vous connaissiez le jour précis de notre entrée en campagne. || Je regrette, je dois vous le dire, d'apprendre que chez vous l'on paraisse vouloir commencer par attaquer le quadrilatère, au lieu de se porter au fond de l'Adriatique, et obliger l'Autriche à accepter un combat, en rase campagne. Il y a là une pensée qui m'inquiète. || D'un autre côté je ne vous cacherai pas que j'aurais voulu voir accepter, par le Général La Marmora, la combinaison, qu'au moyen de quelques millions fournis en commun, nous aurait procuré une puissante insurrection en Hongrie. || Les Chefs Hongrois que j'ai vus sont tous de mon avis. || J'ai répondu en quelques mots, qu'il me semblait que nous étions assez forts sans faire appel à l'élément hongrois . . . . . || En ce qui concerne les opérations je pourrais sans les connaître donner l'assurance qu'elles seraient conduites avec toute l'énergie et . . . . . || Tout en paraissant satisfait de l'imminence de la lutte, Bismarck ne semblait pas aussi sûr que de coutume de son résultat. || Le sort en est jeté, m'a-t-il dit, au moment où je sortais; ayons bonne confiance, mais n'oublions pas que le Dieu Tout-puissant est capricieux.

Barral.

Nr. 5101.

ITALIEN. — Gesandter in Berlin an General La Marmora. — Officielle Aufforderung zur Eröffnung der Feindseligkeiten gegen Oesterreich. — Telegramm.

Berlin, 17 juin 1866.

Nr. 5101. Italien. 17. Juni 1866.

Bismarck me dit que la Saxe ayant demandé aujourd'hui même à la Diète l'assistance fédérale, et conformément au vote de la majorité, la Bavière et l'Autriche s'étant chargées de l'exécution fédérale, il en résulte qu'en dehors des actes de guerre, qui ont dû se passer aujourd'hui, en Saxe, la guerre se trouve déclarée de fait, entre l'Autriche et la Prusse. || En conséquence Bismarck me charge d'informer officiellement Votre Excellence, que la Prusse s'attend, à ce que l'Italie commence immédiatement les hostilités contre l'Autriche. Réponse par télégraphe.

Barral.

Nr. 5102.

ITALIEN. — General La Marmora an den Gesandten in Berlin. — Zustimmende Antwort auf die preussische Aufforderung. — Telegramm.

Florence, 17 juin 1866.

Nr. 5102. Italien. 17. Juni 1866.

Reçu votre télégramme. ‖ Je parts immédiatement pour l'armée. ‖ Le Roi s'y rendra dans deux jours. ‖ Comme je ne doute pas que les hostilités soient réellement commencées, ainsi, que vous l'annoncez de la part du comte Bismarck, fidèles au traité nous déclarerons demain la guerre à l'Autriche.

La Marmora.

Nr. 5103.

ITALIEN. — General La Marmora an Erzherzog Albrecht, Obercommandanten der österreichischen Truppen im Venetianischen. — Kriegserklärung [1]).

Hauptquartier Cremona, 20. Juni 1866.

Nr. 5103. Italien. 20. Juni 1866.

Das Kaiserthum Oesterreich hat mehr als alles Andere dazu beigetragen, Italien in Spaltung und Unterdrückung zu erhalten, und war Ursache unberechenbarer materieller und moralischer Schäden, die es seit vielen Jahrhunderten erleiden musste. Noch heute, wo 22 Millionen Italiener sich als Nation constituirt haben, weigert sich Oesterreich allein unter den grossen Staaten der gebildeten Welt, sie anzuerkennen. ‖ Indem es noch immer eine unserer edelsten Provinzen, die es in ein grosses verschanztes Lager verwandelt hat, in Sklaverei erhält, bedroht es von da aus unsere Existenz und macht unsere innere und äussere politische Entwickelung unmöglich. ‖ Vergebens waren in diesen letzten Jahren die Versuche und Rathschläge befreundeter Mächte, um diese unerträgliche Lage der Dinge zu bessern. Es war daher unvermeidlich, dass Italien und Oesterreich sich bei dem ersten Auftreten einer europäischen Verwickelung einander gegenüber finden mussten. ‖ Die neuerliche Initiative Oesterreichs zu Rüstungen und die Zurückweisung, welche es den friedlichen Vorschlägen dreier Grossmächte angedeihen liess, während es der Welt offenbar wurde, wie feindselig seine Absichten seien, regten Italien von einem Ende bis zum anderen auf. ‖ Daher fühlt sich Se. Majestät der König, als eifersüchtiger Wächter der Rechte seines Volkes und als Vertheidiger der nationalen In-

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[1]) Im Staatsarchiv Bd. XII Nr. 2569 ist dieses Actenstück unvollständig mitgetheilt und wird deshalb hier wiederholt. A. d. Red.

Nr. 5103. Italien. 20. Juni 1866.

tegrität, verpflichtet, dem Kaiserthum Oesterreich den Krieg zu erklären. || Im Auftrage also dieses meines erlauchten Souveräns zeige ich Ew. Kaiserlichen Hoheit als Commandanten der österreichischen Truppen im Venetianischen an, dass die Feindseligkeiten drei Tage nach dem Datum des Gegenwärtigen beginnen werden, es müssten denn Ew. Kaiserliche Hoheit diesem Aufschube nicht beistimmen wollen, in welchem Falle ich Sie bitten würde, es mir anzuzeigen.

Der General der Armee,
Chef des Generalstabes des italienischen Heeres
Alfonso La Marmora.

Die vorstehenden Auszüge aus La Marmora's Buch waren bereits im Satz vollendet, als von deutscher Seite in officieller Weise die Glaubwürdigkeit und theilweise auch die Korrektheit dieser Actenstücke insbesondere der Govone'schen Berichte Nr. 5087 und Nr. 5091 bestritten wurde. Die Redaction des Staatsarchivs lässt nachstehend die bezüglichen amtlichen Erklärungen folgen, hat aber geglaubt nichtsdestoweniger die Actenstücke selbst, auf welche sich eben diese Erklärungen beziehen, ihren Lesern nicht vorenthalten zu dürfen, da deren Kenntniss zum Verständniss dieser politisch so bedeutsamen Aeusserungen nothwendig erscheint. Selbstverständlich will die Redaction ihrerseits mit dem Abdruck der von La Marmora publicirten Govone'schen Berichte keineswegs für die Glaubwürdigkeit derselben eintreten.

Nr. 5104.

PREUSSEN. — Aus der 29. Sitzung des Abgeordnetenhauses vom 16. Januar 1874. — Aeusserungen des Fürsten von Bismarck über La Marmora's Buch[1]).

Nr. 5104. Preussen. 16. Jan. 1874.

Ministerpräsident Fürst v. Bismarck: Ich habe gehört, dass in der heutigen Sitzung von dem Abg. von Mallinckrodt behauptet worden ist, — ich bitte mich zu berichtigen, wenn ich meinerseits Irrthümliches erfahren habe — also behauptet worden ist, ich hätte bei früheren Verhandlungen dem italienischen General Govone die Abtretung eines preussischen Bezirkes — ich weiss nicht genau wo, an der Mosel oder an der Saar — in Aussicht gestellt. Ich bin genöthigt, dies mit den stärksten Ausdrücken für eine dreiste, lügenhafte Erfindung zu erklären, die natürlich der Herr Abgeordnete

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1) In der betreffenden Sitzung stand die dritte Lesung des Civilehegesetzes auf der Tagesordnung. Nach der Discussion über § 6 erhielt der eben ins Haus getretene Ministerpräsident das Wort zu einer persönlichen Bemerkung. A. d. Red.

nicht gemacht hat, die aber anderswo gemacht ist. Aber der Herr Abgeordnete sollte doch vorsichtiger sein im Wiedererzählen solcher Behauptungen, die diese scharfe Kritik verdienen. Die Sache ist in lügenhafter, gehässiger Absicht erfunden worden, es ist auch nicht eine Silbe davon wahr. Ich habe niemals irgend Jemandem die Abtretung auch nur eines Dorfes oder auch nur eines Kleefeldes zugesichert oder in Aussicht gestellt. Alles, was darüber circulirt und behauptet wird, erkläre ich in seinem ganzen Umfange für das, was ich vorhin sagte: für eine dreiste, tendenziöse Lüge, die zur Anschwärzung meiner Person erfunden worden ist. (Abg. Dr. Windthorst: Ich bitte um das Wort.) || Ich bin noch nicht fertig. Ich bin zugleich, da ich einmal zur persönlichen Bemerkung das Wort genommen habe, genöthigt, nun auch einen andern Fall, der gestern vorgekommen ist, in ähnlicher Weise zurückzuweisen. Ich möchte aber alle Herren, die dabei betheiligt sind, und namentlich, wenn sie vorzugsweise ihrer Behauptung, ihrer gewiss ehrlichen Behauptung nach, die Sache des Christenthums, der Religion der Wahrheit vertreten, bitten, doch in Beziehung auf die Wahrheit ihrerseits etwas vorsichtiger zu sein und nicht Alles ohne Prüfung als Wahrheit anzunehmen, was ihnen aus unlauterer Quelle beigebracht wird. Ich möchte den Herren doch zu bedenken geben, dass die ihnen von Gott gesetzte Obrigkeit, die über uns regiert, auch in den Organen, die Se. Majestät an die Spitze des Reiches stellt, vor dem Ausland wenigstens einen gewissen Anspruch auf — ich will nicht sagen, auf persönliche Rücksicht, nein, aber doch auf decente Behandlung vor dem Auslande hat, dass man nicht sich die Aufgabe stellt, die eigene Regierung vor dem Auslande zu verleumden. Man hat von dem Vogel mit seinem Neste ein Sprüchwort, das ich hier nicht anführen will, aber für proper halte ich diese Operation nicht. || Was nun den gestrigen Vorgang betrifft, so habe ich die Aeusserung des Hrn. von Schorlemer aus den bereits gedruckten Berichten entnehmen können, und etwas ausführlicher, als die mir nur eben durch Hörensagen zugekommenen Entstellungen, die ein Redner heute vorgetragen hat. Der Herr Abgeordnete hat mir Inkonsequenzen nachzuweisen gesucht; nun wenn ihm das wirklich gelungen wäre, so würde die Sache, die er vertheidigt, damit nicht in irgend einem Maasse gebessert sein; aber es ist ihm auch in keiner Weise gelungen. Ich will ihn aus seinen eigenen Worten widerlegen. Er hält mir vor, ich hätte früher gesagt, das Dogma der Unfehlbarkeit, welches von Millionen Katholiken angenommen sei, müsse respektirt werden. Das ist auch heute noch meine Ansicht. Ich habe es auch respektirt. Habe ich es je angefochten? Bestreitet man Ihren Glauben in irgend einer Weise? Ich habe nur die Konsequenzen gezogen, die ihm für unser Staatsleben entfliessen, und auf die Schwierigkeiten aufmerksam gemacht, in die unser Staatsleben dadurch kommt, und in Folge dessen auf die Nothwendigkeit aufmerksam gemacht, dass man so wenig wie möglich von Glaubenssachen in das Staatsleben hineinthun müsse. Aber den Glauben respektire ich ja, und würde, wenn er sich auf Dinge erstreckte, die mir und den andern

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evangelischen Christen noch ferner wären, ihn dennoch respektiren. Wie das damit in Widerspruch steht, was ich neulich über eine andere Sache gesagt habe, das verstehe ich nicht, die Herren müssen nur nicht die Freiheit des Glaubens so auslegen wollen, als ob sie darin bestehe, dass sie über Andersgläubige und über den Staat eine Herrschaft üben. Für sie ist Nichtherrschen mit Unterdrücktsein gleichbedeutend. Ich habe es neulich schon gesagt: wir verlangen für unsere Ueberzeugungen auch Unabhängigkeit für uns Andersgläubige und verlangen Achtung vor unserem Glauben, die wir bei Ihnen nicht immer finden. Dann hat der Herr Abgeordnete Thatsachen darüber zum Beweis meiner Behauptungen vermisst, dass das Auftreten der Herren Bischöfe ein revolutionäres wäre. Ich habe ja damals gleich in der Rede selbst darauf aufmerksam gemacht, worauf ich das begründe, und die Thatsache, dass die Herren Bischöfe dem Gesetz den Gehorsam aufkündigen, die Autorität des Gesetzes leugnen, als Gesetzesverächter dem Staate im Prinzipe gegenüber stehen, wird doch der Herr Abgeordnete nicht leugnen, er müsste gar keine Zeitungen lesen. Dass er überhaupt wenig liest, habe ich aus der letzten Rede geschlossen; ich habe das mit geschlossen aus dem ganzen Inhalt der Rede, denn er hat auch meine Rede, auf die er anspielt, nicht gelesen, und ich halte es für nicht richtig, einem viel beschäftigten Beamten gegenüber die Angriffe lediglich auf Vermuthungen zu gründen. Der Herr Vorredner ist seinerseits gewiss ein ausserordentlich wahrheitsliebender Mann, und ich bin überzeugt, dass er nicht freiwillig eine Thatsache behauptet, die er als falsch erkennt, ich bin weit entfernt zu glauben, dass er in dieser Beziehung die Doktrin mancher Orden, die lebhafte Verfechter derselben Sache sind, irgendwie theilt, aber ich glaube, zu einer vollständig skrupulösen Wahrheitsliebe gehört auch, dass man das, was man als wahr behauptet, etwas genauer prüft, und wenn der Herr Vorredner von mir sagt: ein Mann, dessen Vergangenheit mit diesen Thatsachen — ich weiss nicht, wie er sich ausdrückte (Ruf: belastet) belastet sei, ja, mit solchen Thatsachen belastet sei, der verdiene wenig Glauben, so möchte ich ihm dagegen erwidern, dass ein Mann, dessen Reden mit einer solchen Geringschätzung der Thatsachen, und der wirklichen Verhältnisse, wie sie liegen, belastet sind, seinerseits noch viel weniger Glauben verdient und doch auch im Auftreten etwas vorsichtiger sein sollte in Zukunft, je mehr er selbst auf den gewiss verdienten Ruf seiner Wahrheitsliebe hält. || Der Vorredner hat unter Anderem gefragt: Wer hat mehr zum Umsturz der alten deutschen Bundesverfassung beigetragen, die doch auch ein Gesetz war? Ja, es ist ganz etwas Anderes, sich die Abschaffung und Aenderung einer gesetzlichen Einrichtung zum Ziel zu setzen oder die Autorität des rite bestehenden Gesetzes schlechtweg zu leugnen und zu sagen: ich halte es nicht für gültig, ich kehre mich nicht daran, ich unterwerfe mich ihm nicht. Ausserdem giebt es eine Menge Leute, die mehr zur Zerstörung des alten Bundestages gethan haben, wie ich, namentlich alle politischen Freunde des Redners von gestern, und namentlich vor allen Dingen die Majorität der damaligen Regierungen

und deren Vertreter, die eben Beschlüsse fassten, von denen sie ganz sicher voraussehen mussten, dass sie den Bund und seine Verfassung sprengten. Der Hr. v. Schorlemer hat ferner behauptet — und das ist eine Behauptung, die in dieselbe Kategorie der heutigen von Hrn. v. Mallinckrodt gehört — ich hätte die ungarischen und dalmatischen Regimenter 1866 zum Abfall auffordern lassen. Das ist einfach nicht wahr, und wenn der Abgeordnete so bereitwillig ist, von mir über die manifestesten, offenkundigsten Thatsachen, ob heute die Sonne scheint, etwa einen Beweis zu verlangen, den man augenblicklich theoretisch nicht geben kann, den aber der Abgeordnete offenkundigen, von Niemand in Zweifel gezogenen Thatsachen gegenüber oft fordert, so hat er sehr gut in seiner Disputirschule gelernt, jedes Mal nach Beweisen zu fragen, und diesem Ruf begegne ich aus dem Centrum jederzeit als Diskussionsmittel. || Es sind eine Menge Dinge, die bekannt sind, zu deren Beweis man aber Bücher und Vorlesungen beibringen müsste, wenn er im Augenblicke wissenschaftlich geführt werden sollte. Für die behaupteten Thatsachen von 1866 würde der Abgeordnete aber doch irgend einen Beweis beibringen müssen. Es ist weltbekannt, dass sich eine ungarische Legion aus ungarischen Kriegsgefangenen hier gebildet hat; es wurden uns in der Beziehung Anerbietungen schon bei Ausbruch des Krieges gemacht; ich habe sie damals zurückgewiesen, obschon es gewiss eine schwere Verantwortung für einen Minister war, in einem Kampfe mit einem so waffenmächtigen Reiche wie Oesterreich — die Unsrigen waren damals nicht erprobt — irgend einen Beistand zurückzuweisen, der nach Kriegsrecht möglich war; es wäre das eine Unterschätzung des Gegners gewesen. Indessen, da ich immer darauf gerechnet hatte, die Verhältnisse mit Oesterreich nicht dahin zu treiben, dass sie zu unversöhnlichem Zwiespalt führten, — eine Ueberzeugung, der ich noch Ausdruck gegeben habe, und zwar bis zu Seiner apostolischen Majestät hin, in dem Momente, wo unsere Truppen schon marschirten, da noch habe ich Vorschläge gemacht, die leicht zu einer Vereinbarung hätten führen können, — also ich habe am Anfange des Krieges ungarische Anerbietungen zurückgewiesen, und erst in dem Moment, als nach der Schlacht bei Sadowa der Kaiser Napoleon telegraphisch seine Einmischung in Aussicht stellte, da habe ich mir gesagt: ich habe meinem Lande gegenüber nicht mehr das Recht, irgend ein Mittel der Vertheidigung und Kriegführung, welches kriegsrechtlich vollständig erlaubt ist, zu verschmähen, da ich es nicht darauf ankommen lassen wollte, dass unsere Erfolge durch das Erscheinen Frankreichs auf der Bühne wieder in Zweifel gestellt würden. Wenn Frankreich auch damals sehr wenig Truppen hatte, so hätte doch ein geringer Zusatz von französischen Truppen damals hingereicht, um aus den zahlreichen süddeutschen Truppenmassen, die ein sehr gutes aber nicht organisirtes Material darstellten, eine recht tüchtige Armee zu machen, die uns sofort in die Lage gebracht hätte, zunächst Berlin zu decken und alle unsere Erfolge in Oesterreich aufzugeben. || Damals also habe ich in einem Akt der Nothwehr

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die Bildung dieser Legion nicht gemacht, sondern ermächtigt. ‖ Was liegt nun darin Revolutionäres? Ich möchte einmal die Frage oder Erwägung des gestrigen Herrn Redners umkehren. Wenn wir nun mit einem wiedererstarkten Frankreich im Krieg wären und die Hetzereien der süddeutschen Blätter fortdauerten, die dieselbe Sache, wie die Herren vom Centrum hier und wie die „Germania" in der Presse, nur etwas plumper, vertheidigen, die von ihren Bundesgenossen vom rechten Flügel, von den anständigeren Truppencorps nicht desavouirt worden sind, — und es träte dann der Fall ein, dass mit Zuhülfenahme der subversiven Tendenzen, des Beispiels der Gesetzesverachtung, welches die hochstehendsten Prälaten geben, der aufregenden Diatriben, die wir in den Blättern des Centrums an Volksschichten gerichtet sehen, die so genau logisch ihre Pflichten und Rechte nicht abwägen, wie wir es hier in diesem Raume thun, — Alles dieses, sage ich, hätte zur Folge, dass sich nun aus deutschen Mitbürgern oder aus deutschen Kriegsgefangenen in Frankreich eine päpstliche Legion bildete, um Frankreich beizustehen, würde dann Herr v. Schorlemer dem französischen Staatsmann, der in dem sehr schweren Kampf mit dem Deutschen Reich sich diese Velleität einiger unserer Landsleute — ich hoffe, es würden sehr wenige oder keine sein, aber theoretisch ist der Fall doch denkbar, — zu Nutze machte, würde Herr v. Schorlemer dem französischen Staatsmanne, der an der Spitze stände, vielleicht dem König Heinrich, Grafen von Chambord, die Annahme dieser Hülfe als ein revolutionäres Gebahren vorwerfen? Ich glaube nicht. Er könnte eher die Deutschen Revolutionärs nennen — obschon es noch andere Bezeichnungen dafür giebt —, die von ihrem Vaterlande abfallen und dem Feinde Dienste leisten; aber den Feind, der einen Deserteur aufnimmt, so zu nennen, das ist mir noch nicht vorgekommen, dann muss der Herr Vorredner doch vom Kriegsgebrauch sehr wenig wissen. Ich würde überhaupt, wenn ich so wenig von der Welt wüsste wie der Herr Vorredner, weniger oder doch weniger zuversichtlich reden. Eins hat mich mit am meisten frappirt, was eigentlich nicht gegen mich persönlich gerichtet war; aber dass der Herr Vorredner die Lockerung aller Bande der Familie gewissermaassen und das Geborenwerden „unter dem Fluche der Sünde" als eine natürliche Konsequenz der Einführung der Civilehe ansieht — trifft denn diese Konsequenz der Zerrüttung des Familienlebens, z. B. bei unseren rheinischen Landsleuten zu, die doch dem Herrn Vorredner in Westfalen besser bekannt sein werden, als die politischen Thatsachen, auf die er sich bezogen hat? Ist denn da das Familienleben so zerrüttet und zerstört? Ich finde gerade das Familienleben und insbesondere das eheliche Verhältniss bei unseren rheinischen Mitbürgern ein Beispiel ächt deutscher Sitte, das mit demjenigen, was man von Frankreich kennt, auf das Unangenehmste kontrastirt. Ich glaube, dass gerade am Rhein, wenn man statistische Data über diese Frage überhaupt aufstellen könnte und wollte, die eheliche Sittlichkeit eine sehr hohe Stufe einnehmen würde. Und was den Unterschied betrifft, so stelle er sich bei Einführung der Civilehe so: dann

würden die Abkömmlinge aus einer solchen Ehe „unter dem Fluche der Sünde" geboren werden. Da möchte ich doch an den Herrn Vorredner als Christ — denn ich glaube, gewisse Grundbekenntniss-Wahrheiten theilen wir doch — die Frage stellen, ob er selbst denn glaubt, nicht unter dem Fluch der Sünde geboren zu sein? Wenn er das behauptet, so muss ich sagen, dass ihm, der als einer der hauptsächlichsten Vertheidiger des Christenthums auftritt, nicht nur die Kenntniss der Politik, sondern auch die Kenntniss einer der ersten Heilswahrheiten abgeht.

. . . .

Abg. v. Mallinckrodt: Dem Herrn Ministerpräsidenten scheint das, was ich hier gesagt habe, nicht vollständig treu mitgetheilt worden zu sein; das nehme ich an nach einem der Ausdrücke, deren er sich bediente. Ich habe nicht davon gesprochen, dass er eine „Zusicherung" gemacht hätte. Ich werde mir erlauben, aus dem stenographischen Berichte den betreffenden Passus noch einmal zu reproduciren, damit über das Gesagte kein Zweifel obwalten kann. Ich habe, anknüpfend an die Aeusserung, dass die Rheinländer absolut nicht französisch werden wollten, fortgefahren: || „Aber, m. H., leugnen Sie etwa, dass der Mann, der an der Spitze unserer Regierung steht, erklärt hat, er wäre viel weniger deutsch, als preussisch, und ihm würde es so schwer gar nicht werden, einen Theil des linken Rheinufers an Frankreich abzutreten — (Hört! hört! Widerspruch links.) den Theil des linken Rheinlandes, den die baierische Pfalz und den der preussische Regierungsbezirk Coblenz und Trier auf der rechten Moselseite bildet. Ja oder Nein? (Nein! links.) Schön! — Sind Sie bei der Unterredung zwischen dem General Govone und dem Ministerpräsidenten zugegen gewesen? (Nein! Sie?) Ich auch nicht. (Heiterkeit.) Ich auch nicht, aber ich habe in amtlichen Actenstücken die Behauptung gelesen, und ich habe vergeblich nach einem Widerspruche mich bisher umgesehen." || Nun würde es sich fragen, ob ich in diesen Aeusserungen — (Ruf: Weiter lesen!) Damit ist es aus. „Sehr richtig! im Centrum." (Abg. Lasker: O nein, es ist nicht aus.) Dies ist Seite 107. (Ruf: Weiter lesen!) || Ja, ich habe nichts weiter. Ich werde das stenographische Bureau bitten, mir die Nummern, die noch etwa fehlen, mitzutheilen, und ich werde dann mir erlauben, das noch ferner zu verlesen. Was nun diese Aeusserung anbetrifft, so bezieht sie sich auf den Inhalt des von dem Ministerpräsidenten Italiens, dem General La Marmora (Ruf: Dem Feinde Deutschlands!) edirten bekannten Buches. Das Buch enthält eine ganze Reihe von Actenstücken, Actenstücke, die ich meinerseits keineswegs von vornherein als unbedingt richtig anzuerkennen geneigt bin und geneigt gewesen bin, aber immerhin amtliche Actenstücke, und in diesen Schriftstücken ist vielfach referirt über Unterhaltungen mit dem Herrn Ministerpräsidenten. Die referirenden Personen waren offenbar in der Lage, die Wahrheit berichten zu können, denn sie berichteten aus unmittelbar eigenster Wahrnehmung. Dieses Buch ist seit einer ziemlich langen Reihe von Monaten

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in der Oeffentlichkeit bekannt, die italienische Urschrift ist längst ins Deutsche übertragen, das Buch ist in vieler Leute Hand, es war also Gelegenheit in Masse geboten, Berichtigungen der etwa darin enthaltenen falschen Behauptungen eintreten zu lassen. Vergegenwärtigen Sie sich die Neigung zum Dementiren, die man sonst vielfach zu beobachten Gelegenheit gehabt hat, sei es in officiösen oder officiellen Aeusserungen, so muss der Umstand, dass einer so bedeutenden Quellensammlung gegenüber unser leitender Staatsmann keine Veranlassung gegeben hat zu einer bestimmten, deutlichen überzeugenden Erklärung, die Vermuthung begründen, es beruhten die Anführungen in diesen öffentlichen Correspondenzen allerdings in der Wahrheit. Gleichwohl habe ich meinerseits die Thatsachen, um die es sich handelt, nicht als unbedingt wahr hingestellt, aber ich mache gar kein Geheimniss daraus, ich habe daran geglaubt, und nachdem die Dementis vergeblich haben auf sich warten lassen in Bezug auf manche Anführungen in diesem Buche, die ich besser zu controliren in der Lage bin, so hat mir dieser Umstand die Glaubwürdigkeit der Anführungen noch näher gebracht. Wenn nun der Herr Ministerpräsident erklärt, die Anführungen, die in dem Buche enthalten sind, seien unwahr und seien lügenhaft, dann bin ich meinerseits durchaus nicht in der Lage und fühle mich nicht im Mindesten berufen, einer solchen von maassgebender Stelle ausgehenden Erklärung gegenüber meine bisherige Auffassung als berechtigtere zur Geltung zu bringen. Ich indossire dann einfach den Vorwurf der Lüge, der ja, wie der Herr Ministerpräsident ausdrücklich sagte, auf mich persönlich gar nicht gemünzt sein sollte, an die richtige Adresse, und die richtige Adresse ist: der Ministerpräsident General La Marmora; warten wir also ab, ob der etwa in der Lage ist, den Beweis für seine Anführungen anzutreten oder gar zu erbringen.

Ministerpräsident Fürst v. Bismarck: Der Herr Vorredner hat eine eigenthümlich in der Politik der ganzen Partei begründete Art, sich aus der Affaire zu ziehen, so wie er sieht, dass die Schusslinie unangenehm wird, und den Vorwurf zu indossiren an Jemanden, der übrigens weder Ministerpräsident noch General mehr ist, sondern einfacher Privatmann, der in unerlaubter Weise Actenstücke veröffentlicht hat, die in seinem früheren amtlichen Verhältniss zu seiner Kenntniss gekommen sind — ein Verfahren, gegen das, wie mir von italienischer Seite auf meine vertraulichen Erkundigungen mitgetheilt ist, ein Strafgesetz in Italien nicht gültig ist. Zugleich aber — und das zeigt doch auch das Maass von Ansehen, das in Italien diesen Veröffentlichungen zu Theil wird, ist mir gesagt worden, dass man in Folge dieses Vorgangs das Bedürfniss anerkannt hätte, ein solches Strafgesetz in Italien herzustellen. Dass der Herr Vorredner lieber das Zeugniss eines Feindes als das der Thatsachen herbeizieht, wundert mich nicht; ein solcher aber ist der General La Marmora nach seinem ganzen Verhalten und nach seiner ganzen Politik, und ich könnte über seine Politik viel mehr und viel unangenehmere Bücher schreiben, als er über die meinige, wenn ich nicht eine Abneigung

hätte, andere Potenzen und Mächte in solche Erörterungen hineinzuziehen. Insofern steht aber der Herr Vorredner viel freier da; er braucht auf die Interessen und Ehre des eigenen Landes und auf dessen Beziehungen zu fremden Mächten so viel weniger Rücksicht zu nehmen, als ich dazu gezwungen bin. Der Herr Vorredner sagte, er hätte seinerseits an die Echtheit geglaubt. Ja, meine Herren, wenn ich Alles öffentlich sagen wollte, was ich glaube über manche Leute, so könnten wir leicht in eine üble Lage kommen. Ich halte mich dazu jedoch nicht für berechtigt, namentlich in öffentlicher Versammlung und in amtlicher Stellung, ehe ich nicht die Wahrheit dessen, was ich vorbringe, etwas mehr geprüft habe. Der Herr Vorredner begründet eine Art von Recht, an die Sache zu glauben, darauf, dass Monate lang diese, wie gesagt, von einem Privatmann publizirte Sammlung zu Unrecht entwendeter Actenstücke — d. h. subjektiver Actenstücke, es sind ja doch immer nur einseitige Berichte einzelner Personen, die darin ihre Eindrücke von vertraulichen Unterredungen veröffentlichen, — er hielt sich für berechtigt, daran zu glauben, weil Monate verflossen waren, ohne eine Widerlegung. Ja, meine Herren, wenn ich mich auf die Widerlegung alles dessen einlassen wollte, was gegen mich gedruckt wird, auch nur vielleicht im Sinne der hier vertretenen Mittelpartei gegen mich gedruckt wird, da reichte kein Pressbureau und kein Welfenfonds; da müsste ein besonderes Ministerium dazu eingerichtet werden, um das blos lesen zu lassen. Und ich rechne es mir zur Ehre! In meinem ganzen, unter verschiedenen Gestaltungen der europäischen Politik stets mit entschlossener Vertretung der Interessen meines Königs und meines Landes durchgeführten politischen Leben ist mir die Ehre zu Theil geworden, sehr viele Feinde zu haben. Gehen Sie von der Garonne, um mit der Gascogne anzufangen, bis zur Weichsel, von dem Belt bis zur Tiber, suchen Sie an den heimischen Strömen der Oder und des Rheins umher, so werden Sie finden, dass ich in diesem Augenblicke wohl die am stärksten und — ich behaupte stolz! — die am besten gehasste Persönlichkeit in diesem Lande bin. Ich freue mich, dass der Herr Vorredner durch ein Kopfnicken mir das bestätigt; sein Gerechtigkeitsgefühl gesteht mir das zu. Und wenn ich auf Alles das, was in Frankreich, in Italien, in Polen — und ich will das Andere gar nicht nennen — gegen mich geschrieben wird, auch nur lesen wollte, — ich habe mir nachgerade eine ziemlich hochmüthige Verachtung gegen diese Elaborate angewöhnt, und die Herren sind auf dem besten Wege, mich dahin zu bringen, dass ich das Gebiet, was davon betroffen wird, noch weiter ausdehne. Bisher aber halte ich es für meine Pflicht, wenn ich hier von einem Vertreter dieses Landes in einer so prägnanten Weise angegriffen werde, auch hier darüber Rede zu stehen. Ich halte es auch für mein Recht, nicht abzuwarten, bis der Moment günstiger ist und etwa nach sechs Wochen zu sagen, Hrn. v. Schorlemers oder Hrn. v. Mallinckrodts damalige Behauptungen waren nicht gegründet, sondern ich muss eben die Gelegenheit nehmen, damit die Unwahrheit von der Wahrheit noch eingeholt wird, so weit es möglich ist, wenn

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auch nicht alle Zeitungen die Wahrheit aufnehmen, sondern dennoch die Unwahrheit aufrecht erhalten. Wenn nun der Herr Vorredner mir noch vorgeworfen hat, dass ich gestern bei einer solchen Tagesordnung nicht anwesend war: ja, ich habe nicht die Aufgabe, in die Materie dieses Gesetzes einzugehen, denn die Vertretung der Staatsregierung ist ja in guten Händen; aber der Herr Vorredner kann sicher sein, wenn auf der Tagesordnung nicht die Civilehe gestanden hätte, sondern: „Verbreitung falscher Thatsachen gegen den Ministerpräsidenten", so würde ich gewiss erschienen sein.

Abg. v. Mallinckrodt: Meine Herren! Der Herr Ministerpräsident meint: ich hätte mich aus der Schusslinie zu ziehen beabsichtigt. Das ist gerade meine Art nicht; ich meine, es hätte der Herr Ministerpräsident sich die Sache etwas kürzer machen können, er hätte uns bestimmtere Erklärung geben können in Beziehung auf den Inhalt und Nichtinhalt der Actenstücke, um die es sich handelt, anstatt eine Reihe von anderen Dingen zu erwähnen, ja uns sogar bis an die Ufer der Tiber und Garonne zu führen, was mich etwas poetisch an die Zeit der Troubadours erinnert. Er hat sich dann über den Autor des fraglichen Buches dahin geäussert, dass er nicht General und Ministerpräsident sei. Jedenfalls ist er es gewesen und war in der Lage, authentische Actenstücke zu besitzen. Das erkennt auch der Herr Ministerpräsident an; denn er betonte die unerlaubte Veröffentlichung von Actenstücken und erwähnt, die italienische Regierung habe ihr Bedauern ausgesprochen — solche Courtoisie war ja zu erwarten, — dass es kein Strafgesetz gebe, was erlaubte, dem entgegenzutreten. Immerhin handelt es sich also um die Publication von Actenstücken, und es bleibt die Frage, ob in den Actenstücken Wahrheit enthalten ist oder Unwahrheit, wie viel Wahrheit oder wie viel Unwahrheit; und das näher zu erfahren, wäre gewiss für uns alle recht interessant. Wenn die Bemerkung gefallen ist, ich legte Gewicht auf das Zeugniss des Feindes, so trifft das den Fall nicht. Bei der Erörterung der Wahrheit kommt es nicht darauf an, welche politische Stellung der Zeuge hat, sondern es kommt nur darauf an, ob und inwieweit der Zeuge glaubwürdig ist; und wenn der Herr Ministerpräsident meinte, die Ehre des eigenen Landes liege ihm mehr und mir weniger am Herzen, dann räume ich eine Berechtigung zu einer derartigen Auffassung schlechterdings nicht ein, denn die Ehre des Landes soll jedem Bürger des Landes, (Rufe: soll!) einerlei, in welcher Stellung er sich befindet, gleich heilig sein und gleich nahe am Herzen liegen. Aber, m. H., die Auffassung über das, was die Ehre des Landes erheischt, die kann variiren; und ich bin stets der Meinung gewesen und bekenne mich ganz offen dazu, dass die höchste Ehre des Landes fordert, dass das Land auch in der ehrenhaftesten Weise seine Politik führt. Und wenn die Regierung des Landes sich Handlungen zu Schulden kommen liesse, (Rufe: Liesse, liesse!) liesse, wie die, welche ihr hier zum Vorwurf gemacht worden sind, dann wäre es ja wohl der Beruf der Vertreter dieses Landes, der Regierung zu sagen, dass wir eine solche Handlungsweise ver-

werfen. Dadurch werden wir die Ehre des Landes vor dem Auslande sicher stellen, nicht dadurch, dass wir Fehler verdecken.

Ministerpräsident Fürst v. Bismarck: Ich bedaure, dass die Kampfesart des Herrn Vorredners mich nöthigt, diese unerquickliche Debatte noch um sehr wenige Worte zu verlängern. Ich muss dem Herrn Vorredner sagen, dass er sich durch die Art, wie er soeben sprach, in die Schusslinie der Vorwürfe, die ich gegen den General La Marmora machte, wieder hineinbegeben hat. Der Herr Vorredner hat vorher, nachdem ich mich als eine Autorität, deren Zeugniss, namentlich, wenn sie von Thatsachen unterstützt ist, doch mindestens ebenso glaubwürdig ist, wie die eines in der Fremde erschienenen Buches, nachdem ich mich zu einem sehr bestimmten Dementi verstanden hatte, gesagt, ja das ändere die Sache, wenn es früher so bestimmt dementirt wäre, dann hätte er auch nicht daran geglaubt. Nun frage ich die ganze Versammlung, hat nicht der Herr Vorredner dennoch in seiner ganzen letzten Aeusserung die Tendenz zu erkennen gegeben, er möchte den Glauben, den er selbst nicht mehr theilt, bei der Welt und bei Ihnen aufrecht erhalten? Der Glaube an die Thatsache, welche er nicht mehr zu glauben erklärt hat, das ist eine eigenthümliche Fechtweise, gegen die unter Umständen schwer aufzukommen ist. || Den Herrn Vorredner zu überzeugen, fällt mir gar nicht ein, oder das auch nur im Entferntesten zu versuchen; ich weiss ja, dass das ganz fruchtlos ist. Ich lasse auch ganz unentschieden, ob es mir gelingen wird, die Ueberzeugung, die der Herr Vorredner eigentlich hat, überhaupt richtig zu ermitteln und aufzufinden, — ich getraue es mir nicht. Im Uebrigen möchte ich aber doch den Herrn Vorredner darauf aufmerksam machen, wenn er so hartnäckig auf ein Apokryphenzeugniss, was im Auslande geboren ist, und solche Actenstücke, die Gegenstand der Unterredung gewesen sind, sich beruft, aber doch nicht mit Genauigkeit, — ich erinnere mich, dass ich vor ein paar Monaten, als ich gerade Musse hatte, Theile aus dem Buche gelesen habe. — Mir kommt es so vor, dass der Herr Vorredner doch noch genauer mich beschuldigt hat, als selbst das Buch des General La Marmora. Aber, meine Herren, wenn Jemand in der Politik offen vor ganz Europa auf der Bühne hat wirken können, wie ich, dann hat er doch wohl das Recht, sich auf Thatsachen zu berufen, und dagegen alle apokryphen Winkelskribenten, mögen sie Titel haben, wie sie wollen, als Zeugen zu refüsiren. Ist denn irgend etwas abgetreten? Existirt denn irgend wo eine Verhandlung darüber? Hätten wir nicht, wenn wir etwas hätten abtreten wollen, mit grosser Leichtigkeit, mit sehr wenig, mit wenig Dörfern, nur dass der Schandfleck an unserer Politik gehaftet hätte, Alles erreichen können? Das wäre ja dem Kaiser Napoleon genug gewesen. Hätte ich nicht die gewaltigsten Resultate auf dem Gebiete bei Frankreich leicht erreicht, wenn ich danach gestrebt hätte? Sollte ich etwa bei Frankreich einen Korb bekommen haben? War vielleicht der Kaiser Napoleon im Andenken an seine Stuttgarter Erziehung voller sittlicher deutscher Entrüstung, dass er sagte:

Nr. 5104.
Preussen.
16. Jan. 1874.

Nein, aus Liebe zu Deutschland will ich diesen lasterhaften Minister nicht benutzen, weil ich damit seine deutsche Politik schändete? Wäre es nicht das Leichteste von der Welt gewesen, zum Abschluss mit Napoleon zu kommen, wenn ich hätte so verfahren wollen, wie der Herr Vorredner doch immer noch zu glauben beinahe vorgiebt. Jedenfalls wünscht er, dass Andere es glauben. Meine Herren, ich finde, man hat gar nicht das Recht, mich auf diese Weise zu nöthigen, durch einen Missbrauch der Tribüne zur Verleumdung der eigenen Regierung den Leiter der Regierung zu nöthigen, sich hier gegen solche Vorwürfe zu verantworten, und Ihre und meine Zeit damit zu tödten, für deren Bezeichnung mir jeder parlamentarische Ausdruck fehlt, aber die Presse wird ihn wohl finden.

Nr. 5105.

PREUSSEN. — Note des Deutschen Reichs-Anzeigers u. Kön. Preuss. Staats-Anzeigers vom 22. Jan. 1874 über La Marmora's Buch.

Nr. 5105.
Preussen.
22. Jan. 1874.

Nachdem die durch General La Marmora veröffentlichten angeblichen Depeschen des Generals Govone in Folge neuerer Besprechung derselben von eingeweihten Personen einer näheren Prüfung unterzogen worden, hat sich letzteren die Ueberzeugung aufdrängen müssen, dass die fraglichen Depeschen gefälscht, wo nicht ganz erfunden sind, da sie sich mit den hier gepflogenen Verhandlungen nicht decken, weder dem Gegenstande noch der Reihenfolge nach. || Die bei der italienischen Regierung angestellten vorläufigen Anfragen haben ergeben, dass die vom General La Marmora angeführten angeblichen Depeschen im italienischen Archiv gar nicht vorhanden sind und über die Existenz, den Inhalt und den Verbleib etwaiger Berichte der Art dort nichts bekannt ist. || Das von dem Abgeordneten von Schorlemer-Alst am 17. d. M. vor dem Hause der Abgeordneten citirte Billet des preussischen Gesandten, Grafen von Usedom, vom 12. Juli 1866 [1]) dagegen (S. 316 des La Marmora'-schen Buches, S. 300 der Mainzer Uebersetzung) ist seinem vollen Inhalte nach bekannt. Bei Wiedergabe desselben sind vom General La Marmora nach den Worten: || *„Par rapport à l'affaire hongroise“* || die Worte unterdrückt worden: || *„pour laquelle Votre Excellence a bien voulu m'adresser Mr. .“* || Der hier einstweilen von uns nicht genannte Name ist der eines hervorragenden Führers der ungarischen Emigration. || General La Marmora hat das in seinen Händen befindliche Actenstück in dieser Weise verstümmelt, weil jene Worte allein schon seine auch anderweit leicht zu widerlegende Behauptung entkräften, dass er mit der ungarischen Bewegung in keiner Beziehung gestanden habe.

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[1]) S. oben Nr. 5099. A. d. R.

Nr. 5106.

ITALIEN. — General La Marmora an die Opinione. — Erwiderung auf die Note des Preussischen Staats-Anzeigers.

[Uebersetzung.]

Sehr geschätzter Herr Director des Journals L'Opinione.

Florenz, 26. Januar 1874.

Nr. 5105. Preussen. 22. Jan. 1874.

Unterrichtet von den schweren Anklagen, die in der Abgeordnetenkammer zu Berlin am 16. dieses Monats gegen mich gerichtet, und von jenen andern, welche in Folge davon in vielen deutschen Journalen verbreitet wurden, bitte ich Sie in Ihrem sehr geehrten Blatte diese meine Erklärung veröffentlichen zu wollen. || Fürst Bismarck behauptete bei seiner Vertheidigung gegen den in der Sitzung vom 16. Januar ihm gemachten Vorwurf: einen Augenblick an die Abtretung von irgend einem Streifen deutschen Gebietes gedacht zu haben, dass diese Anklage Nichts sei, als das Echo einer ruchlosen Verleumdung, die im Auslande nur zu dem Zwecke geschmiedet sei, seinen Ruf anzuschwärzen. Wenn die Sache dabei stehen geblieben wäre, würde meine Antwort sehr leicht gewesen sein. Da ich absolut Nichts behauptet hatte, konnte die Anklage der Verleumdung nicht gegen mich gerichtet sein. || Was aber den General Govone betrifft, den Verfasser des Dokuments, das den Angriffen des Herrn Mallinckrodt zum Text gedient hatte, so weiss Jeder, der diesen, Italien allzu früh geraubten und gleich sehr wegen seiner Tapferkeit, seiner Fähigkeit und seiner Rechtschaffenheit geachteten General gekannt hat, dass er sich täuschen konnte, indem er irgend welchen Ausdrücken des preussischen Ministers einen Sinn beimass, den sie nicht hatten, aber dass er sicherlich unfähig war wissentlich die Wahrheit zu fälschen, oder Verleumdungen auf Kosten irgend Jemandes zu erfinden oder zu verbreiten. || Aber der preussische Staats-Anzeiger trägt jetzt die Frage auf ein ganz anderes Gebiet. Es handelt sich um die Note des Grafen Usedom datirt vom 12. Juni 1866. Wenn die Anklagen wahr wären, die dort erhoben werden, wäre dieses Dokument, wie andere in meinem Buche: „Un po' piu di luce sugli eventi politici e militari del anno 1866", enthaltene von Anfang bis zu Ende gefälscht. Und der Beweis der Fälschung wäre daraus zu entnehmen, dass ich jene Note derartig verstümmelt hätte, dass ihr Sinn vollständig verändert wird. || Entschlossen der unerhörten Provocation des grossen Kanzlers und der officiösen deutschen Presse die Ruhe entgegenzusetzen, die ich in der Zuversicht meines Gewissens finde, werde ich mich darauf beschränken hier vollständig den vertraulichen Brief zu bringen, den mir der Gesandte von Usedom schrieb, indem ich den Theil unterstreiche, den ich in meinem Buche aus Rücksicht auf die dort genannte Persönlichkeit weggelassen hatte. || Hier ist der Brief vollständig:

Nr. 5106: Italien. 26. Jan. 1874.

Florence, 12 juin 1866.

"Par un télégramme arrivé cette nuit, le comte Bismarck me fait savoir qu'il s'attend au commencement des hostilités dans peu de jours.

"Par rapport à l'affaire hongroise *le comte Czaky que vous m'avez adressé, dans le temps, et que j'avais à mon tour recommandé au comte Bismark, s'est rendu dernièrement à Berlin où il a trouvé un très bon accueil.*

"Le comte Bismarck m'ordonne en ce moment même de communiquer à V. E. . . . . . . [etc. etc. siehe oben Nr. 5099].

Wenn ich also der Anstifter der ungarischen Insurrection gewesen wäre, hätte sich Graf Bismarck nicht über mich beim Grafen Barral beklagt, wie aus dem Bruchstück des folgenden Telegramms vom 15. Juni (auf S. 331 meines Buchs) hervorgeht:

"D'un autre côté je ne vous cacherai pas que j'aurais voulu *voir accepter* par le général La Marmora la combinaison qu'au moyen de quelques millions fournis en commun, nous aurait procuré une puissante insurrection en Hongrie."

Worauf ich denselben Tag antwortete:

"Quant aux Hongrois il parait qu'on ignore à Berlin, que la Hongrie est presque dégarnie de troupes, et que par conséquent, elle pourrait bien se soulever si elle y était disposée."

Und wenn ich die Insurrection in Ungarn begünstigt hätte, wäre mir wahrscheinlich die Usedom'sche Note vom 17. Juni erspart geblieben, die bestimmt war mir einen Feldzugsplan aufzudrängen, welcher von ungarischen Flüchtlingen dictirt und auf die Insurrection begründet war, deren Gegner ich, wie Allen bekannt ist, immer war. || Wenn ich weiter dem Communiqué des preussischen Staats-Anzeigers glauben soll, dass man so weit gegangen sei bei unserer Regierung anzufragen, ob die von mir publicirten Dokumente sich im Archiv des Ministeriums finden und zu verlangen, dass in dem Falle eine Vergleichung angestellt werde zwischen dem Originaltext und meiner angeblichen Fälschung, so muss ich erklären: || 1. Dass die fraglichen Dokumente, da sie nicht Staats-Dokumente sind, sondern Briefe, die einen privaten und vertraulichen Charakter haben, sich nicht im Ministerium des Aeussern finden können; || 2. Dass ich, um trotzdem die Vergleichung, auf welche der preussische Staatsanzeiger sich zu berufen scheint, möglich zu machen, bei dem Notar Dr. Pietro Fratocchi in seinem Bureau in Rom, Via Muratte Nr. 20, wo sie für Jeden auf Verlangen zu besichtigen sind, die Originale der beiden fraglichen Dokumente deponirt habe, nämlich: || 1. den Privat-Brief des Grafen Usedom, datirt vom 12. Juni 1866; || 2. den vertraulichen Bericht des General Govone vom 3. Juni 1866. || Ich lege sie dort nieder um auf eine öffentliche ebenso schwere, wie unerwartete Anklage zu antworten, nicht weil ich es nöthig habe mich meinem Lande gegenüber zu rechtfertigen, wo Alle, Freunde und politische Gegner, meiner Loyalität immer volle Gerechtigkeit haben widerfahren lassen, wie sie, ich hoffe, alle Fremden ihr werden widerfahren lassen, die mein politisches Leben kennen. || Genehmigen Sie, Herr Director, den Ausdruck meiner Hochachtung und Schätzung. Alfonso La Marmora.

Nr. 5107.

ITALIEN. — Aus der Sitzung der Deputirtenkammer vom 3. Februar 1874. — Interpellation über La Marmora's Veröffentlichungen.

Nr. 5107. Italien. 3. Febr. 1874.

Präsident (Biancheri): Es kommt jetzt die Interpellation des Abgeordneten Nicotera, welche lautet: „Der Unterzeichnete wünscht den Herrn Minister des Auswärtigen zu befragen über die Veröffentlichung einiger diplomatischer Actenstücke.“ Ich gebe dem Abgeordneten Nicotera das Wort, um seine Interpellation zu entwickeln.

Abgeordneter Nicotera: Ich beginne damit, unserm Herrn Präsidenten zu danken, dass er mir die Priorität bewilligt hat, nicht, weil ich glaubte, die Frage besser entwickeln zu können, als mein Freund Miceli es gethan hätte, sondern weil die Priorität dazu dient zu beweisen, dass wir heute diese Frage nicht behandeln, weil die preussischen Zeitungen sich damit beschäftigt haben, sondern weil wir selbst vom ersten Augenblick an, wo diese peinliche Frage sich erhob, die Pflicht erkannt haben, sie in diesem Saale aufzuklären, und ich bin gewiss, dass die Antwort, welche unser Ministerium geben wird, der Art sein wird, um zu zeigen, dass es keineswegs angetrieben zu werden brauchte, und dass die Regierung, seit jenes unglückliche Buch des Generals La Marmora erschien, sich damit beschäftigte und an die passendste Art dachte, es zu desavouiren und wirksam dafür zu sorgen, dass Unzuträglichkeiten gleicher Art in Zukunft nicht wiederkehren. ‖ Ich gestehe, dass ich eine gewisse Schwierigkeit empfinde, eine solche Frage zu behandeln; ich werde mir alle Mühe geben, nicht ein Wort zu sagen, welches die Lage eines Mannes erschweren könnte, der denn doch dem Lande grosse Dienste geleistet hat (Gut! auf der Rechten); dennoch ist es unmöglich, dass bei der Discussion nicht etwas geäussert werde, das wie ein Tadel des Geschehenen klänge. ‖ Ein anderer Grund, weshalb ich mich in einer gewissen Verlegenheit befinde, ist folgender: ich möchte nicht, dass man glaubte, dass wir diese Angelegenheit discutiren, um irgend einer Pression nachzugeben. (Bewegung.) ‖ Ich habe zu viel Zutrauen zu der Einsicht unserer Freunde in Preussen, um einen einzigen Moment zu befürchten, dass sie glauben könnten, dass irgend etwas in Italien vorfällt, oder dass man in irgend etwas sich fügt, weil Freunde oder Feinde es verlangen. ‖ Wir haben das Bewusstsein unserer Pflichten und unserer Rechte, und wir werden sie immer hoch und unversehrt zu halten wissen.

Dies gesagt, gehe ich direct auf die Sache ein. ‖ Ich habe mir nicht die Mühe gegeben, zu untersuchen, ob die von General La Marmora veröffentlichten Dokumente korrekt sind oder nicht; dies geht meiner Ansicht nach uns Nichts an, es geht vielmehr den General La Marmora an. Das, was ich

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zu allererst mich selbst gefragt habe, ist Folgendes: Sind die von General La Marmora veröffentlichten Dokumente Privat-Dokumente oder öffentliche? Hatte der General La Marmora das Recht, sich dieser Dokumente zu bedienen? (Abg. Ghinosi: sie bei Seite zu bringen?) Und wenn er es hatte, erlauben Sie mir eine beiläufige Bemerkung, welche aus seiner letzten Veröffentlichung sich mir aufdrängt. Mich hat eine Behauptung schmerzlich berührt, welcher General La Marmora, davon bin ich überzeugt, nicht die Bedeutung hat geben wollen, die ihr beim ersten Anblick Viele gegeben haben. Ich will von dem Theile sprechen, der sich auf den vielbeklagten General Govone bezieht. || General La Marmora musste alle die Achtung fühlen, und ich glaube auch, hat sie gefühlt, welche dem Andenken eines Mannes gebührte, der seinem Lande so wacker gedient hat, und deshalb durfte er nicht das Andenken dieses verehrten Todten irgend welchem Tadel aussetzen. || Ich habe mich also nicht mit der Korrektheit der Veröffentlichung beschäftigt, sondern habe mich nur an die Thatsache gehalten. || Ist es zulässig, dass ein Staatsmann, ein Minister, auch nachdem er sein Amt verlassen, geheime Dokumente benutzt und veröffentlicht? Dies ist die erste Frage, die ich an den Herrn Minister richte. Es scheint mir nicht, dass jenen Dokumenten die Bedeutung gegeben werden kann, die ihnen General La Marmora giebt, nämlich die von Privat-Dokumenten. Wenn jene Dokumente als private zurückbehalten werden könnten, dann wüsste ich nicht mehr, was öffentliche Dokumente wären. Also ist es klar, dass es nothwendig ist, eine Norm festzusetzen für die Verantwortlichkeit der Staatsmänner, eine Verantwortlichkeit, die man nicht für beendet ansehen kann mit dem Ende des Amtes, und in Bezug darauf frage ich: Sind in unserer Gesetzgebung die nothwendigen Bestimmungen enthalten? (Eine Stimme: Das Strafgesetzbuch.) || Nach der Ansicht vieler Sachverständiger wären es die Artikel 169 und 172 unseres Strafgesetzbuches und der Artikel 191 des toskanischen Strafgesetzbuches. Aber ich will nicht in diese Frage eingehen; ich frage nur die Regierung, ob sie dieselbe geprüft hat und ob, wenn sie eine Lücke in unserer Gesetzgebung gefunden, sie daran denkt, dafür zu sorgen, dass solche Unzuträglichkeiten sich nicht erneuern, welche in der That das Ansehen unseres Landes beeinträchtigen können. || Dies sind die ersten Fragen, die ich an das Ministerium richte. || Eine andere Frage ist folgende: Ergiebt sich aus den Acten, die sich im Ministerium des Aeussern befinden, irgend etwas, das die Würde Italiens compromittiren könnte? || Ich begreife, dass das Ministerium eben so sehr wie alle Welt durch die Publication des Generals La Marmora überrascht sein musste, die in einem so ungeeigneten Momente erfolgte, nämlich dem der Abreise des Königs nach Deutschland. Ich begreife, dass weder der Präsident des Ministerraths, noch der Minister des Aeussern damals die Zeit hatten, das Buch zu lesen, und deshalb mache ich ihnen keinen Vorwurf, nicht gleich daran gedacht zu haben, die Frage zu lösen. Aber heute nach alledem, was vorgefallen ist, bin ich sicher, dass die Regierung die Sache studirt haben muss, und ich frage: Glaub

sie genügend Fürsorge treffen zu können? Und hier erlauben Sie mir, geehrte Collegen, es noch einmal zu wiederholen: Ich bin nicht zu dieser Discussion durch die Rathschläge unserer Freunde in Deutschland angetrieben, an die ich vielmehr eine Bitte richten würde, nämlich die: wenn Ihr wollt, dass die Regierung und das Parlament sich mit dieser Frage beschäftigen, giebt es nur ein Mittel, nämlich: weniger davon zu sprechen. (Bravo, sehr gut!) ‖ Ich erwarte von dem Entgegenkommen des Ministers eine Antwort auf meine Fragen, die ich von neuem formulire: 1) Sind die von General La Marmora veröffentlichten Dokumente privaten oder öffentlichen Charakters? 2) Hatte General La Marmora das Recht, diese Dokumente zu gebrauchen? 3) Hat die Regierung die Frage studirt, die Verantwortlichkeit der Minister, der Staatsmänner, der Beamten wirksam zu machen, und zu verhindern, dass eine solche Ungehörigkeit sich wiederhole? 4) Existiren im Archiv des Ministeriums des Aeussern in Bezug auf geschehene Dinge Dokumente, welche dem Rufe, der Ehre der italienischen Nation zu nahe treten oder schaden können, wie es aus der unlängst im deutschen Parlament stattgehabten Discussion hervorzugehen scheint? ‖ Ich werde die Antwort des Herrn Ministers abwarten, um dann noch meine Bemerkungen zu machen. (Bewegung.)

. . . .

Visconti-Venosta, Minister des Aeussern: Die vom Abg. Nicotera mit einer Mässigung und Würde der Sprache, der ich mich freue Gerechtigkeit widerfahren zu lassen, erhobene Interpellation hat das vom Herrn General La Marmora über die Ereignisse von 1866 veröffentlichte Buch zum Gegenstande. ‖ Ich glaube nicht nöthig zu haben, zu erklären, dass die Regierung jede Verantwortlichkeit für diese Veröffentlichung ablehnt, die ein rein persönlicher Act bleibt, den zu verhindern nicht in unserer Macht stand. Aber weil ich aufgefordert bin, über die Veröffentlichung zu sprechen, ist es auch meine Pflicht, hinzuzufügen, dass die Regierung sie missbilligt und bedauert (Bravo, sehr gut! von verschiedenen Seiten), sie um so mehr bedauert, weil wir sehen, dass sie den Gegnern der Politik einer befreundeten Regierung und des ausgezeichneten Staatsmannes, der diese Politik leitet, den Vorwand bieten konnte, gegen dieselbe ungerechte Angriffe zu richten, die nur in einem Missverständniss ihren Ursprung haben können, weil sie vor dem Augenschein der Thatsachen und der erreichten Resultate in sich zusammenfallen. (Sehr gut, bravo!) ‖ Es konnte sicher nicht in der Absicht des Herrn Generals La Marmora liegen, sein ganzes Leben beweist es, Denen Waffen zu leihen, die, wenn sie die Feinde der deutschen Regierung sind, nicht weniger die Feinde Italiens sind und die nichts Besseres verlangen würden, als die Beziehungen zwischen beiden Ländern gestört zu sehen. (Gut, bravo!) ‖ Aber da diese beklagenswerthe Folge eintrat, konnte die Regierung nicht zögern, gegen das Berliner Cabinet dieselbe Sprache zu führen, die sie jetzt dem Parlamente gegenüber führt, weil sie mit der Wahrheit übereinstimmt und mit den freundlichen Beziehungen übereinstimmt, welche zwischen den beiden Regierungen bestehen,

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und mit der Solidarität der gemeinsamen Interessen gegenüber einer Partei, deren Agitationen, deren Anstrengungen, deren ganzes Gebahren, das darf nicht vergessen werden, wesentlich ihre Feindschaft gegen Italien zum Ausgang und zum Ziel haben. (Sehr gut!) ‖ Was die in dem Buche enthaltenen Dokumente betrifft, so fragt mich der Herr Abgeordnete Nicotera, ob wir sie für öffentliche oder private Dokumente halten. ‖ Die Regierung glaubt, dass viele dieser Dokumente, obwohl sie eine vertrauliche Form haben, doch öffentliche Interessen angehen (Sehr gut!); deshalb können wir uns nicht der Ansicht anschliessen, die der Herr General La Marmora darüber ausgesprochen hat. Es ist wahr, dass in unserer Gesetzgebung keine genauen Bestimmungen existiren über den Gebrauch der Dokumente und keine ganz klaren Normen, um diejenigen Papiere, welche als Privat-Papiere betrachtet werden können, von denen zu unterscheiden, welche dem Staate gehörige Dokumente sind. ‖ Die sehr strengen Cautelen und Vorschriften, welche in den Regierungs-Traditionen des Hauses Savoyen existirten, sind mit Einführung des parlamentarischen Regimes gefallen. Dies, der Herr Abg. Nicotera wird es zugeben, macht es um so schwieriger, genau zu bestimmen, was als Garantie für das Recht einer gebührenden Vertheidigung zugestanden werden kann, und wo dagegen das alle andern überragende Interesse, nämlich das Staats-Interesse, anfängt. ‖ Die Regierung hält es für zeitgemäss, sich mit diesem Gegenstande zu beschäftigen; sie hält es für zeitgemäss, reiflich eine Frage zu studiren, welche weder sehr leicht, noch sehr einfach ist, wenn man Resultate erreichen will, die dann wirklich ausgeführt werden und wirksam bleiben. Aber sobald sie, bei gelegenem Anlass und zu gelegener Zeit, ihre bezüglichen Ansichten festgestellt haben wird, wird das Parlament berufen werden, über die vorgeschlagenen Maassregeln zu berathen. ‖ Der Herr Abg. Nicotera hat mich gefragt, ob aus den beim Ministerium befindlichen Acten etwas hervorgehe, das die Würde unseres Landes compromittiren könnte. Ich habe kaum nöthig, in Antwort auf diese Frage zu erklären, dass nichts Derartiges existiren kann und dass dort kein der Würde und Ehre der nationalen Politik entgegenstehendes Dokument sich befindet.

Abg. Chiaves: Ich verlange das Wort zu einer persönlichen Bemerkung. (Andauernde Bewegung.)

Minister des Aeussern: Meine Herren, ich habe nichts Anderes über diesen Gegenstand hinzuzufügen, und ich könnte auf andere an mich gerichtete Fragen keine andere Antwort geben. Ich hoffe, dass meine Erklärungen den Herrn Abg. Nicotera befriedigt haben und dass sie alle diejenigen beruhigen können, die vielleicht befürchteten, dass dieser Zwischenfall, ausserhalb der Verantwortlichkeit der Regierung entstanden, sich gegen den allgemeinen Wunsch in eine internationale Frage verwandeln und jene Interessen compromittiren könnte, welche die Regierung vor Allem zu schützen die unabweisliche Pflicht hat. (Lebhafte Zeichen der Zustimmung auf vielen Bänken.)

Präsident: Der Abg. Chiaves hat das Wort zu einer persönlichen Bemerkung verlangt. Ich gebe es ihm.

Abg. Chiaves: Die persönliche Bemerkung ist folgende: In der Interpellation des Abg. Nicotera ist ein Punkt, der sich auf die Möglichkeit bezieht, dass in den Archiven der Regierung sich Acten befänden, die der Würde der Regierung selbst zu nahe träten und die zu der Zeit, wo General La Marmora Minister war, entstanden wären. Ich hatte die Ehre, Minister des Innern in dem Cabinet zu sein, dem La Marmora präsidirte, und die Kammer wird mir wohl zugestehen, dass ich über einen solchen Punkt nicht schweigen kann. || In Bezug auf den ersten Theil der Interpellation des Abg. Nicotera werde ich mich darauf beschränken, zu sagen, dass ich bedauere, dass bei dieser Discussion General La Marmora nicht gegenwärtig ist, der vielleicht mit seinem doch immer gewichtigen Worte viele Urtheile hätte berichtigen können, die doch wohl besser berichtigt worden wären. || Ich muss hinzufügen, dass diejenigen, die im Jahre 1866 Collegen des Herrn Generals La Marmora waren, sich das Gesetz gemacht haben, vollständiges Stillschweigen über diese Angelegenheit zu beobachten, und dieses Gesetz haben sie sich fast instinctiv gemacht ohne die geringste vorherige Verabredung; so sehr entstand in Allen von selbst die Idee, dass es sich hier um eine persönliche Angelegenheit handelte, durchaus nicht um eine nationale oder internationale Angelegenheit. || Aber wenn man von der vom Kanzler des deutschen Reiches in der bezüglichen Sitzung ausgegangenen Erklärung spricht, wonach in den Acten der italienischen Regierung etwas existirte, das die Würde der Regierung verletzen könnte, so können die Collegen des Generals La Marmora im damaligen Ministerium offenbar nicht schweigen. Sie können freilich weder viel sagen, noch dürfen sie es. Was Anderes können sie sagen, als einen Protest erheben? || Und es ist ein Protest, nichts Anderes, den ich den Anführungen entgegensetze, welche es dem Fürsten bei dieser Gelegenheit zu machen gefiel. || Man kann auf dem Höhepunkte der Macht stehen; aber wenn man von einem befreundeten Lande und von einer ehrenwerthen Regierung spricht, so darf man nicht sagen, dass man wisse, in ihren Acten aus einer bestimmten Periode sei etwas, das ihre Ehre und Würde verletzen könnte. (Sehr gut!) Meine Herren, ich sage Nichts weiter. Auf Behauptungen, wie die des Fürsten Bismarck in Bezug auf die Handlungen der italienischen Regierung im Jahre 1866, kann ich meinestheils mit nichts Anderem antworten als mit einem Proteste; aber ich glaube, dass ein Protest für Jeden, der für die Würde des Vaterlandes Gefühl hat, genügt, um jene grundlosen Behauptungen zurückzuweisen und vorläufig wenigstens siegreich zurückzuweisen. (Bravo, sehr gut! auf der Rechten.)

Minister des Aeussern: Ich glaube nicht, dass in der Discussion, die in Berlin statthatte und auf welche der Herr Abg. Chiaves angespielt hat, eine Sprache geführt worden ist, welcher sich die Auslegung geben liesse, von der er gesprochen hat. || Wenn ich mich recht erinnere (es thut mir

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übrigens leid, den Beweis nicht vor Augen zu haben), so sagte der deutsche Reichskanzler, dass er seinerseits den General La Marmora hätte beschuldigen können (Stimmen: Das ist wahr!), aber dass er dennoch nicht andere Regierungen in die Frage verwickeln wolle, das heisst die italienische Regierung; dies war, wenn ich mich recht erinnere, der Sinn seiner Worte, welche, während sie den beklagenswerthen Streit zwischen dem Fürsten Bismarck und dem General La Marmora unberührt liessen, Nichts enthielten, das die Regierung direct in Mitleidenschaft gezogen hätte. Ich theile die damals vom Fürsten Bismarck ausgesprochene Ansicht. Es wäre in keiner Beziehung nützlich, wenn die beiden Regierungen sich dahin bringen liessen, unter einander in historischer und retrospectiver Weise die Vorfälle zu discutiren, welche die Ereignisse von 1866 begleitet haben. (Zustimmung.) || Was bleibt übrig von der Allianz und dem Kriege von 1866? || Preussen legte die Grundlagen der Grösse und Einheit Deutschlands, und Italien konnte sein nationales Programm erfüllen, konnte seine Unabhängigkeit vollenden und zu gleicher Zeit Bande einer dauerhaften Freundschaft mit unserem alten Gegner Oesterreich knüpfen. || Die Erinnerung an diese Allianz wird bleiben als Pfand der freundschaftlichen Beziehungen, die zwischen den zwei Ländern bestehen. (Gut!) Das ist das Resultat; erhalten wir es, wie es ist! Niemandem nützt es, es zu verdunkeln oder abzuschwächen. (Sehr gut, bravo!)

Die Pflicht der Regierung ist, dies Resultat unversehrt zu erhalten; diese Pflicht ist ihr von den Interessen unseres Landes vorgezeichnet. (Allgemeine, lebhafte Zustimmung.)[1])

[1]) Nach dieser Discussion reichte General La Marmora am 5. Februar der Kammer seine Entlassung als Abgeordneter ein; doch nahm die Kammer dieselbe nicht an und bewilligte ihm auf Antrag des Abg. Nicotera statt dessen nur einen zweimonatlichen Urlaub. A. d. Red.

Central-Asiatische Frage.

Nr. 5108.

RUSSLAND. — Min. d. Ausw. (Fürst Gortschakow) an die Vertreter Russlands im Auslande. — Circulardepesche über die russische Politik in Central-Asien.

St. Pétersbourg, le 21 novembre, 1864.

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Les journaux Russes ont rendu compte des dernières opérations militaires exécutées par un détachement de nos troupes dans les régions de l'Asie Centrale avec un succès remarquable et des résultats importants. || Il était à prévoir que ces événements exciteraient d'autant plus l'attention du public étranger qu'ils se passent dans des contrées à peine connues. || Notre auguste Maître m'a ordonné de vous exposer succinctement, mais avec clarté et précision, la position qui nous est faite dans l'Asie Centrale, les intérêts qui servent de mobile à notre action dans ces contrées, et le but final que nous y poursuivons. || La position de la Russie dans l'Asie Centrale est celle de tous les Etats civilisés qui se trouvent en contact avec des peuplades à demi sauvages, errantes, sans organisation sociale fixe. || Il arrive toujours en pareil cas que l'intérêt de la sécurité des frontières et celui des relations de commerce exigent que l'Etat plus civilisé exerce un certain ascendant sur des voisins que leurs moeurs nomades et turbulentes rendent fort incommodes. On a d'abord des incursions et des pillages à réprimer. Pour y mettre un terme on est forcé de réduire à une soumission plus ou moins directe les peuplades limitrophes. || Une fois ce résultat atteint celles-ci prennent des habitudes plus tranquilles, mais elles se trouvent à leur tour exposées aux aggressions des tribus plus éloignées. || L'Etat est obligé de les défendre contre ces déprédations et de châtier ceux qui les commettent. Delà la nécessité d'expéditions lointaines, couteuses, périodiques, contre un ennemi que son organisation sociale rend insaisissable. Si l'on se borne à châtier les pillards et qu'on se retire, la leçon s'efface bientôt; la retraite est mise sur le compte de la faiblesse; les peuples Asiatiques en particulier ne respectent que la force visible et palpable; la force morale de la raison et des intérêts de la civilisation n'a point encore de prise sur eux. La tâche est donc toujours à recommencer. || Pour couper à ces désordres permanents ou établir quelques points fortifiés parmi les populations ennemies, on exerce sur elles un ascendant que peu à peu les réduit à une soumission plus ou moins forcée. || Mais au delà de cette seconde ligne d'autres peuplades plus éloignées encore viennent bientôt provoquer les mêmes dangers et les mêmes répressions. || L'Etat se trouve donc dans l'alternative ou d'abandonner ce

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travail incessant et de livrer ses frontières à des désordres perpétuels qui y rendent toute prospérité, toute sécurité, toute civilisation impossible, ou bien d'avancer de plus en plus dans la profondeur de contrées sauvages où à chaque pas qu'il accomplit les distances accroissent les difficultés et les charges auxquelles il s'expose. || Tel a été le sort de tous les pays qui ont été placés dans les mêmes conditions. Les Etats-Unis en Amérique, la France en Algérie, la Hollande dans ses Colonies, l'Angleterre aux Indes, tous ont été inévitablement entraînés à suivre cette marche progressive où l'ambition a moins de part que l'impérieuse nécessité et où la plus grande difficulté consiste à savoir s'arrêter. || C'est aussi la raison qui a conduit le Gouvernement Impérial à s'établir d'abord d'un côté sur la Syr-Daria, de l'autre sur le Lac Issyk-Kaul, et à consolider ces deux lignes par des forts avancés qui peu à peu ont pénétré au coeur de ces régions lointaines sans cependant parvenir à établir au delà la tranquillité indispensable à la sécurité de nos frontières. || La cause de cette instabilité réside d'abord dans le fait qu'entre les points extrêmes de cette double ligne il y a un immense espace inoccupé, où les invasions des tribus pillardes continuent à paralyser toute colonisation et tout commerce par caravanes; ensuite dans les fluctuations perpétuelles de la situation politique de ces contrées, où le Turkestan et le Kokand tantôt réunis, tantôt séparés, toujours en guerre, soit entre eux, soit avec le Bokhara, n'offraient aucune possibilité de relations fixes ni de transactions régulières quelconques. || Le Gouvernement Impérial s'est donc vu placé, malgré lui, dans l'alternative que nous avons indiquée, c'est-à-dire, ou de laisser se perpétuer un état de désordre permanent qui paralyse toute sécurité et tout progrès, ou de se condamner à des expéditions couteuses et lointaines sans aucun résultat pratique et qu'il faut toujours recommencer, ou enfin d'entrer dans la voie indéfinie de conquêtes et d'annexions qui a conduit l'Angleterre à l'empire des Indes, en cherchant à soumettre l'un après l'autre, par la force des armes, les petits Etats indépendants dont les moeurs pillardes et turbulentes et les perpétuelles révoltes ne laissent à leurs voisins ni trêve ni repos. || Ni l'une ni l'autre de ces alternatives ne répondait au but que s'est tracé la politique de notre auguste Maître, et qui est non d'étendre hors de toute proportion raisonnable les contrées soumises à son sceptre, mais d'y asseoir sa domination sur des bases solides, d'en garantir la sécurité et d'y développer l'organisation sociale, le commerce, le bien-être, et la civilisation. || Notre tâche était donc de rechercher un système propre à atteindre ce triple but. || A cet effet les principes suivants ont été posés: || 1. Il a été jugé indispensable que les deux lignes fortifiées de nos frontières, l'une partant de la Chine jusqu'au Lac Issyk-Kaul, l'autre partant de la Mer d'Aral le long de la Syr-Daria, fussent réunies par des points fortifiés de manière à ce que tous nos postes fussent à même de se soutenir mutuellement et ne laissassent aucun intervalle par où pussent s'effectuer impunément les invasions et les déprédations des tribus nomades. || 2. Il était

essentiel que la ligne ainsi complétée de nos forts avancés fût située dans une contrée assez fertile, non seulement pour assurer leur approvisionnement, mais aussi pour faciliter la colonisation régulière qui seule peut préparer au pays occupé un avenir de stabilité et de prospérité, en gagnant à la vie civilisée les peuplades avoisinantes. || Enfin 3. Il était urgent de fixer cette ligne d'une manière définitive afin d'échapper aux entraînements dangereux et presques inévitables qui de répression en représailles pouvait aboutir à une extension illimitée. || Dans ce but il fallait poser les bases d'un système fondé non seulement sur la raison qui peut être élastique, mais sur les conditions géographiques et politiques qui sont fixes et permanentes. || Ce système nous était indiqué par un fait très simple, résultant d'une longue expérience, c'est-à-dire, que les tribus nomades, qu'on ne peut saisir ni châtier, ni contenir efficacement, sont pour nous le voisinage le plus incommode, et que par contre les populations agricoles et commerçantes, fixées au sol et dotées d'un organisme social plus développé, nous offrent la chance d'un voisinage tolérable et de relations perfectibles. || La ligne de nos frontières devait donc englober les premières, elle devait s'arrêter à la limite des secondes. || Ces trois principes donnent l'explication claire, naturelle, et logique des dernières opérations militaires accomplies dans l'Asie Centrale. || En effet, la ligne primitive de nos frontières le long de la Syr-Daria jusqu'au Fort Perovsky d'un côté, et de l'autre jusqu'au Lac Issyk-Kaul, avait l'inconvénient d'être presque à la limite du désert. Elle était interrompue sur un immense espace entre les deux points extrêmes; elle n'offrait pas assez de ressources à nos troupes et laissait en dehors des tribus sans cohésion avec lesquelles nulle stabilité n'était possible. || Malgré notre répugnance à donner à nos frontières une plus grande étendue, ces motifs avaient néanmoins été assez puissants pour déterminer le Gouvernement Impérial à établir cette ligne entre le Lac Issyk-Kaul et la Syr-Daria, en fortifiant la ville de Tchemkend, récemment occupée par nous. || En adoptant cette ligne nous obtenons un double résultat. D'un côté la contrée qu'elle embrasse est fertile, boisée, arrosée par de nombreux cours d'eau; elle est habitée en partie par des tribus Kirghises qui ont déjà reconnu notre domination; elle offre donc les éléments favorables à la colonisation et à l'approvisionnement de nos garnisons. De l'autre elle nous donne pour voisins immédiats les populations agricoles et commerçantes du Kokand. || Nous nous trouvons en face d'un milieu social plus solide, plus compacte, moins mobile, mieux organisé; et cette considération marque avec une précision géographique la limite où l'intérêt et la raison nous prescrivent d'arriver et nous commandent de nous arrêter, parceque d'une part toute extension ultérieure de notre domination rencontrant désormais non plus des milieux inconstants, comme les tribus nomades, mais des Etats plus régulièrement constitués, exigerait des efforts considérables et nous entraînerait d'annexion en annexion dans des complications incalculables, — et que d'autre part ayant désormais pour voisins de pareils Etats malgré leur civilisation

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arrièrée et l'instabilité de leur condition politique, nous pouvons néanmoins espérer que des relations régulières pourront un jour se substituer pour l'avantage commun aux désordres permanents qui ont paralysé jusqu'ici l'essor de ces contrées. || Tels sont, Monsieur, les intérêts qui servent de mobile à la politique de notre auguste Maître dans l'Asie Centrale; tel est le but final que les ordres de Sa Majesté Impériale ont tracé à l'action de son Cabinet. || Vous êtes invité à puiser dans ces considérations le sens des explications que vous fournirez au Gouvernement auprès duquel vous êtes accrédité, si vous êtes interpellé ou si vous voyez s'accréditer des suppositions erronées quant à notre action dans ces contrées lointaines. || Je n'ai pas besoin d'insister sur l'intérêt évident que la Russie a à ne pas agrandir son territoire et surtout à ne pas se créer aux extrémités des complications qui ne peuvent que retarder et paralyser son développement intérieur. || Le programme que je viens de tracer rentre dans cet ordre d'idées. || Bien souvent durant ces dernières années on s'est plû à assigner pour mission à la Russie de civiliser les contrées qui l'avoisinent sur le continent Asiatique. || Les progrès de la civilisation n'ont pas d'agent plus efficace que les relations commerciales. Celles-ci pour se développer exigent partout l'ordre et la stabilité, mais en Asie elles réclament une transformation profonde dans les moeurs. Il faut avant tout faire comprendre aux peuples Asiatiques qu'il y a plus d'avantage pour eux à favoriser et assurer le commerce des caravanes qu'à les piller. || Ces notions élémentaires ne peuvent pénétrer dans la conscience publique que là où il y a un public, c'est-à-dire, un organisme social et un Gouvernement qui le dirige et le représente. || Nous accomplissons la première partie de cette tâche en portant notre frontière à la limite où se rencontrent ces conditions indispensables. || Nous accomplissons la seconde en nous attachant désormais à prouver aux Etats voisins par un système de fermeté quant à la répression de leurs méfaits, mais en même temps de modération et de justice dans l'emploi de la force et de respect pour leur indépendance, que la Russie n'est pas leur ennemi, qu'elle ne nourrit à leur égard aucune vue de conquête, et que des relations pacifiques et commerciales avec elle sont plus profitables que le désordre, le pillage, les représailles et la guerre en permanence. || En se consacrant à cette tâche, le Cabinet Impérial s'inspire des intérêts de la Russie. Il croit servir en même temps les intérêts de la civilisation et de l'humanité. Il a droit de compter sur une appréciation équitable et loyale de la marche qu'il poursuit et des principes qui le guident.

Gortchakow.

Nr. 5109.

GROSSBRITANNIEN. — Min. d. Ausw. (Earl of Clarendon) an den königl. Botschafter in St. Petersburg (Sir A. Buchanan). — Vorschlag einer neutralen Zone zwischen russischem und englischem Gebiet in Central-Asien.

Foreign Office, March 27, 1869.

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Sir! — I have lately, and on more than one occasion, spoken to Baron Brunnow respecting Central Asia and the rapid advance of the Russian troops towards the frontier. I have done so in a friendly tone, stating that I had no complaint to make on the part of Her Majesty's Government, who felt neither suspicion nor alarm, as they had often received satisfactory assurances concerning the policy of Russia in those regions, and were strong enough in India to repel all aggression; but that these feelings, as his Excellency must be well aware, were not generally shared either by the British or the Indian public; and it was highly desirable, with reference to the friendly relations with Russia, which we were so desirous to maintain, that this uneasiness should be allayed. || The language of Baron Brunnow on such occasions has always been positive as to the desire of his Government to restrict rather than to extend the possessions of Russia southwards in Central Asia; and speaking, as he said, with full knowledge of the policy of his Government, he has affirmed that no onward movement disquieting to India need be apprehended. || I have expressed my opinion, that abstinence from aggression would on every account promote the true interests of Russia, whose territorial possessions needed no aggrandizement; and if the giving effect to this policy depended upon the Russian Government alone, I should not doubt its being maintained; but I was sure, judging from our own Indian experience, that such would not be the case, and that Russia would find the same difficulty, that England had experienced in controlling its own power when exercised at so great a distance from the seat of Government, as to make reference home almost a matter of impossibility; there was always some frontier to be improved, some broken engagement to be repaired, some faithless ally to be punished; and plausible reasons were seldom wanting for the acquisition of territory, which the Home Government never thought it expedient to reject, and could not therefore condemn the motives or the means, by which it had been acquired. Such, in the main, had caused the extension of our Indian Empire: and there was reason to apprehend that such was the course, into which Russia, however unwillingly, was about to be drawn. || Unless stringent precautions were adopted, we should find before long, that some aspiring Russian General had entered into communication with some restless or malcontent Indian Prince, and that intrigues were rife, and disturbing the Indian

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population on the frontiers, against which Her Majesty's Government would have a right to remonstrate with Russia; and it was in order to prevent such a state of things, which might endanger the good understanding which now existed not only on this, but on all other questions between England and Russia, that I earnestly recommended the recognition of some territory as neutral between the possessions of England and Russia, which should be the limit of those possessions, and be scrupulously respected by both Powers. || Baron Brunnow appeared to think, that this would be a desirable arrangement, and promised to make a report of my suggestion to his Government. || His Excellency called upon me this morning, and had the goodness to leave in my hands the copy, herewith inclosed, of a letter from Prince Gortchakow, giving a positive assurance that Afghanistan would be considered as entirely beyond the sphere, in which Russia might be called upon to exercise her influence. || In thanking Baron Brunnow for this communication, I assured him, that the views of Her Majesty's Government were in unison with those of Prince Gortchakow; but that I was not sufficiently informed on the subject at once to express an opinion as to whether Afghanistan would fulfil the conditions and circumstances of a neutral territory between the two Powers, such as it seemed desirable to establish. || It is right I should mention, that a few days ago Baron Brunnow informed me that an Afghan, of some mark and standing, had applied for protection to the Russian Minister at Tehran, who had been ordered by the Emperor to refuse it, as Afghanistan was beyond the limits of Russian influence. || I am, etc.

Clarendon.

P. S. — Your Excellency will read this despatch to Prince Gortchakow.

Nr. 5110.

RUSSLAND. — Min. d. Ausw. an den kaiserl. Botschafter in London (Baron Brunnow). — Afghanistan als neutrale Zone vorgeschlagen. (Beilage zu Nr. 5109.)

St. Pétersbourg, le 24 février / 7 mars, 1869.

Nr. 5110. Russland. 7. März 1869.

Mon cher baron! — J'ai lu avec un véritable plaisir le compte-rendu de votre conversation avec Lord Clarendon, au sujet de nos communs intérêts en Asie. J'y ai retrouvé le reflet d'un entretien intime pendant nos loisirs de l'année dernière. C'est la même élévation de pensée, la même droiture de sentiment. L'Empereur en a été très satisfait. || L'idée exprimée par Lord Clarendon de maintenir entre les possessions des deux Empires en Asie une

zône destinée à les préserver de tout contact, a toujours été celle de notre auguste Maître. || Vous pouvez assurer Lord Clarendon que rien ne saurait mieux répondre à la pensée de l'Empereur. || Nous sommes persuadés que les hommes d'Etat de l'Angleterre n'ont plus de doute à cet égard, mais nous comprenons aussi que la masse du public, qui obéit plutôt à des instincts et à des préjugés, ait encore besoin d'être rassurée. || Je ne parle pas des anciennes préventions concernant les possessions Britanniques dans les Indes. Il est clair qu'aujourd'hui il n'y a pas dans le monde entier un seul Etat civilisé qui ne préfère voir ces contrées maintenues sous la domination éclairée qui y répand le bien-être et le progrès plutôt que de les voir retomber dans l'anarchie et la barbarie. Laissons donc là ces fantômes d'un autre temps qui devraient s'évanouir aux lumières de notre époque. || Quant à la zône qui sépare nos possessions Asiatiques et où le rayonnement des influences respectives des deux pays pourrait un jour se rencontrer, il est de toute évidence que nous nous trouvons tous deux dans une position identique. || Des avantages que les deux Gouvernements pourraient chercher dans une extension décroissent en raison de la distance, et il y a dans cette voie une limite naturelle où ils doivent s'arrêter, sous peine de s'exposer à des inconvénients et même à des périls. || Nous avons rendu pleine justice à la profonde sagesse des considérations développées par Sir John Lawrence pour recommander l'abstention à l'égard de l'Afghanistan. || Pour notre part, nous n'éprouvons aucune crainte quant aux vues d'ambition de l'Angleterre dans le centre de l'Asie, et nous avons le droit d'attendre la même confiance dans notre bon sens. Mais ce qui peut troubler le jugement c'est la défiance réciproque. || C'est dans cette voie que les deux pays pourraient finalement se heurter, et nous ne pouvons par conséquent qu'applaudir à l'idée de Lord Clarendon d'en sortir par des explications amicales et mutuelles. || Vous pouvez donc, mon cher Baron, réitérer au Principal Secrétaire d'Etat de Sa Majesté Britannique l'assurance positive que Sa Majesté Impériale considère l'Afghanistan comme entièrement en dehors de la sphère où la Russie peut être appelée à exercer son influence. Aucune intervention ou ingérence quelconque, contraire à l'indépendance de cet Etat, n'entre dans ses intentions. || Si le Cabinet de Londres, comme nous l'espérons, est animé des mêmes convictions que nous, le désir témoigné par Lord Clarendon se trouverait réalisé; nos possessions respectives en Asie seraient séparées par une zône indépendante qui les préserverait de tout contact immédiat, et les deux pays pourraient, en toute sécurité, se livrer à l'accomplissement de la mission civilisatrice qui leur est dévolue, chacun dans la sphère naturelle qui lui appartient, en se prêtant même le mutuel concours qui résulte aujourd'hui de la diffusion générale des lumières et du progrès. Veuillez, etc.

Gortchakow.

Nr. 5111.

GROSSBRITANNIEN. — Min. d. Ausw. an den königl. Geschäftsträger in St. Petersburg (Mr. Rumbold). — Vorschlag des obern Oxus statt Afghanistans.

Foreign Office, April 17, 1869.

Nr. 5111. Grossbritannien. 17. April 1869.

Sir! — At my request Baron Brunnow had the goodness to call at this office yesterday, in order that we might discuss together the proposal made by Prince Gortchakow, that Afghanistan should be considered as a neutral territory between the British and Russian territories. || In the name of my colleagues and myself, I requested his Excellency to convey to his Government our thanks for the friendly feelings on the part of Russia that had dictated the communication; and I said we could give no better proof of our confidence in the sincerity of those feelings, and of the desire that no cause for misunderstanding should exist between the two Governments in Asia than by suggesting a somewhat different arrangement to that which had been proposed by Prince Gortchakow. || I then stated that the Secretary of State for India, having consulted those members of his Council, who were well acquainted with the countries in question, had arrived at a decided opinion that Afghanistan would not fulfil those conditions of a neutral territory that it was the object of the two Governments to establish, as the frontiers were ill defined; and if the Russian forces advanced to those frontiers, disputes with the Chiefs on the border would sooner or later but infallibly ensue, and Russia might be compelled, however unwillingly, to disregard the arrangement she had entered into, and it was therefore thought advisable to propose, that the Upper-Oxus, which was south of Bokhara, should be the boundary line which neither Power should permit their forces to cross. This I said would leave a large tract of country, apparently desert and marked on the map before us as belonging to the Khan of Khiva, between Afghanistan and the territory already acquired by Russia, and, if agreed to, would, it might be hoped, remove all fear of future dissension. || Baron Brunnow, whose tone was very friendly and who seemed most desirous to promote an amicable arrangement, said he had no powers to assent to what I had proposed, and could only undertake to make it known to his Government with the reasons I had urged in recommendation of its adoption. His Excellency observed, however, that Khiva was south of the Oxus, and if the Khan came to understand that his country, being regarded as neutral, had nothing to fear from Russian invasion, he might become extremely troublesome, and the Russian Government could hardly be expected to enter into any engagement that would preclude them from chastising the Khan for the offences he might commit. || I assured his Excellency, that Her Majesty's Government had no

wish that Russia should enter into any engagement that might be injurious to her interests, and should the necessity arrive for punishing the Khan on his own territory, we should rely upon the honour of Russia, as soon as she had obtained reparation, again to revert to the arrangement, should she have assented to it, and consider the Upper-Oxus as the boundary which was not to be passed. || I am, etc.

Nr. 5111. Gross-britannien. 17. April 1869.

Clarendon.

Nr. 5112.

GROSSBRITANNIEN. — Geschäftsträger in St. Petersburg an den königl. Min. d. Ausw. — Weiteres Entgegenkommen Russlands.

(Extract.) St. Petersburgh, June 2, 1869.

Nr. 5112. Gross-britannien. 2. Juni 1869.

I saw Prince Gortchakow to-day for the first time since his recent indisposition. || His Excellency told me he believed your Lordship was satisfied with the expression of his ideas respecting Central Asia, conveyed to you through Baron Brunnow. He had taken for his basis a map sent to him from London (Phillip's Persia), and having originally proposed Afghanistan as a territory well suited to serve as neutral ground between the possessions of the two Empires in Asia, he had gone a step beyond, and had expressed his readiness to include within that neutral ground the whole tract of country coloured in yellow in that map. He could not go further, because the competent persons who had been consulted raised objections, and because any greater extension of the neutral zone would include portions of the Bokharian territories south of the Oxus. I told the Prince, that I believed the territory south of the Oxus belonged to Khiva; but he maintained, that it was Bokharian. Of course it was difficult in those regions to define the exact limits of the native States, and a general understanding was all that could be required, the main object being peace between the two Empires, with space sufficient to prevent that peace being endangered by contact. || The Prince went on to say that, considering our relations with Shere Ali, it was to be hoped that we would use our influence with that Chief to keep him within bounds. He was said to be inclined to embark in hostile enterprises both towards Persia in the west and towards Bokhara in the north, and, as he was indebted to us for support of a very tangible kind, we should, in the general interests of peace in that quarter, seek to moderate his ardour. || Prince Gortchakow said, General Kaufmann had gone back to his command with the amplest instructions to live on terms of peace and amity with Bokhara and the other States bordering on the Russian possessions.

Nr. 5113.

GROSSBRITANNIEN. — Botschafter in St. Petersburg an den königl. Min. d. Ausw. — Unterredung mit dem Kaiser über Central-Asien.

(Extract.) St. Petersburgh, July 26, 1869.

Nr. 5113. Gross-britannien. 26. Juli 1869.

On my arrival here I intimated to M. de Westmann that, although I felt it would be indiscreet to request an audience of the Emperor during the few days, which would elapse before his departure for the Crimea, I should gladly avail myself of an opportunity, should one occur, to present the compliments of the Queen to His Majesty, and to give him such information as I had obtained in conversations with your Lordship, as to the opinions of Her Majesty's Government upon the affairs of Central Asia. || The Emperor having consequently been pleased to suggest that I should attend the cavalry manoeuvres to take place at Krasnoe Selo on the 22nd instant, I proceeded there on that day, and joined His Majesty's staff. After the troops had been formed and ordered to advance, the Emperor sent for me, and I had the honour of riding beside him for some time; but as His Majesty was occupied in directing the movements of a large body of cavalry and artillery who were advancing behind us, our conversation was not carried on under the most favourable circumstances. || After I had delivered to His Majesty a complimentary message from the Queen, he expressed a hope that I had also brought him good news on the question of Central Asia. I answered, that His Majesty must be already acquainted with the language held on that subject in the House of Commons by Her Majesty's Government; and from what your Lordship had stated to me in a recent conversation, I could also assure him, that Her Majesty's Government and the Government of India looked upon the events which had recently taken place in Central Asia without any feelings of distrust or apprehension, and that they would neither take measures themselves, nor sanction intrigues on the part of others, of a nature to disturb the tranquillity of the Provinces now occupied by Russia. His Majesty said he was convinced of the friendly feelings of the Government of the Queen, but he had less confidence in the policy of the Government of India, where he feared there was a disposition to encourage the ambitious views of the Emir of Cabul, who is said to contemplate the conquest of Bokhara. I answered, that Her Majesty's Government could not reasonably deny to Shere Ali a right to re-establish his authority over the Provinces which had acknowledged the Sovereignty of his father, but that I did not believe the Emir had aggressive intentions against Bokhara, and I was at all events certain that no enterprise of the kind on his part would be encouraged by the Government of India; and I begged His Majesty to

believe that the Government of India was now under the immediate control of the Government of the Queen, without whose sanction the Viceroy could take no important resolution affecting the policy of Great Britain towards other States. The Emperor said such an assurance on my part tranquillised him ("ce que vous me dites me tranquillise") as very unsatisfactory rumours had reached him as to the views of the Government of India and the intentions of Shere Ali. I then went on to say, that as long as things remain as they are, the good understanding which happily exists between the two Governments cannot be disturbed; but His Majesty should remember that the number of persons in England is very great who are directly and personally interested in the prosperity and tranquillity of India, and that, in the event of a conflict between Russia and Afghanistan, or of the entrance of Russian troops into Provinces bordering on India, the fears of these persons might be worked upon by the party of action in India, and public opinion become so excited that Her Majesty's Government might be obliged to take measures to satisfy it entirely inconsistent with the views they at present entertain. I said, that His Majesty was doubtless aware of the extreme sensitiveness of persons whose interests are affected by political eventualities, and he could appreciate the influence which the apprehensions of such persons might have on public opinion in England. || The Emperor answered, that he quite understood this, and that it was only natural, but there was no probability of any event occurring to create such a state of feeling as that to which I had alluded, for I must know that he had no ambitious views, and that he had been drawn by circumstances ("que nous avons été entraînés") further than he had wished into Central Asia, and as I said that Her Majesty's Government were perfectly satisfied as to how past events had occurred, and that the future alone could cause them anxiety, he trusted no new complications would arise, though an irruption of Khivans into the Government of Orenburg had recently taken place, and such incidents could not be permitted. || As the movements of the troops appeared to call more and more for His Majesty's attention, I did not attempt to continue the conversation, and fell back among the officers of his staff.

Nr. 5114.

GROSSBRITANNIEN. — Min. d. Ausw. an den königl. Botschafter in St. Petersburg. — Bericht über eine Unterredung mit Fürst Gortschakow.

(Extract.) Wiesbaden, September 3, 1869.

Nr. 5114. Gross-britannien. 3. Sept. 1869.

Prince Gortchakow, who is at Baden, having expressed a desire to see me, I went yesterday to Heidelberg for the purpose of meeting his Excellency, and I now propose to place on record such matters of importance as were discussed between us. || The conversation began by Prince Gortchakow, saying, that we might congratulate ourselves upon England and Russia having now no interests that were antagonistic to each other, and that there was no question in any part of the world, upon which the two Powers might not cordially act together. || I said it gave me great pleasure to concur with his Excellency, but there was one part of the world, viz., Central Asia, where a difference between the two Governments might arise, and upon which it was important to arrive at a clear understanding. || Prince Gortchakow agreed, and said he was glad I had at once alluded to the subject, because he could assure me that we had no cause for apprehension, as the Emperor considered, and he entirely shared His Majesty's opinion, that extension of territory was extension of weakness, and that Russia had no intention of going further south. || It was satisfactory, I replied, to learn that the Emperor had arrived at such a sound conclusion respecting the interests of Russia, but that when I considered the rapid advances of Russia and her great organization of territory within the last five years, it was impossible to doubt that her army had been impelled forward either by direct orders from St. Petersburgh, or by the ambition of Generals in disregard of the pacific intentions of the Emperor. || I pointed out the various acquisitions of Russia, and the dates at which they were made, adding that, Russia being now in possession of Samarkand, Bokhara was completely in her power, to which his Excellency assented; and that the next step onwards would probably be to Balkh, which could be of no use to Russia except for purposes of aggression; and that on the Hindoo Koosh the British possessions might be viewed as a traveller on the summit of the Simplon might survey the plains of Italy, and that measures for our own protection might then become necessary. As regarded apprehensions of invasion, however, we had none, as it was impossible for a Russian army of 50,000 men to cross that mountainous country at a vast distance from its basis of operations in order to meet, not the semi-barbarian hordes that had been easily conquered in Central Asia, but a regular army as numerous and well organized as the Russian with all its resources at hand

Nr. 5114. Grossbritannien. 3. Sept. 1869.

— the only apprehension we had was, I continued, that the nearer approach of the Russians, and intrigues with native Chiefs might keep the Indian mind in a ferment and entail upon us much trouble and expense, all of which would be avoided by a clear understanding with the Russian Government, by which a neutral ground between the possessions of the two countries might be established. We well knew, I added, from our own experience, how difficult it was from a great distance to control the ambition of military Commanders, but it seemed to me that, if the Emperor's favours were bestowed on the Generals who laboured to civilize the territory already acquired, and that His Majesty's displeasure was clearly manifested to those who sought to extend that territory, the desired object might with ease be attained. || Prince Gortchakow replied, that he could take no exception to anything I had said, and particularly with regard to the military commanders, who had all exceeded their instructions in the hope of gaining distinction, and who consequently one after the other had been recalled; and he made special allusion to General Chernaieff, whose talents and bravery were remarkable; but his Excellency said, that nothing need be feared on the part of General Kaufmann, who now commanded in Turkestan, and who had already gained every honour that a Russian General could aspire to, and who had been sent to Turkestan with instructions almost identical with those, which I had indicated. || Prince Gortchakow then proceeded to say, that I was right in thinking that Bokhara might at any moment be taken, because it depended for its supply of water upon Samarkand, which was in the possession of Russia, but that it was the intention of the Emperor not to retain Samarkand, and he could give no better proof of His Majesty's determination not to proceed further southwards; certain arrangements had to be made and were not yet completed with the Emir of Bokhara. It was the intention, however, of the Russian Government to demand 1,000,000 roubles for the expenses of the war, and to allow ample time for payment, about which no difficulty was anticipated, as the revenue of Samarkand was 300,000 roubles per annum. || I then alluded to a misapprehension which I believed to exist in his Excellency's mind respecting the assistance given to Shere Ali by England with intentions hostile to Russia, and I explained that the policy was not of recent date and had originated with Lord Lawrence, that it had no reference to the advances of Russia in Central Asia, and had solely for its object to enable Shere Ali to maintain that order in Afghanistan which was of importance to the neighbouring possessions of Great Britain. || I then told Prince Gortchakow that, since I left England, I had received the copy of a letter from the Governor-General in Council, stating that nothing had occurred which could justify a belief that the Ameer entertained any aggressive intentions on neighbouring states, or for a military advance beyond his own frontier in any direction whatever; and that, should he ever display such intentions, it would be the duty of the Indian Government strongly to remonstrate against a

Nr. 5114. Gross-britannien. 3. Sept. 1869.

course so dangerous to himself and so contrary to the course of policy which was inculcated at Umballa, and which he assured the Governor-General he was anxious to pursue. || Prince Gortchakow declared, that this was quite sufficient and most satisfactory, and that he should have great pleasure in forthwith reporting it to the Emperor. || I next alluded to the Oxus as forming the most desirable line of demarcation for a neutral ground between the Russian and British possessions, but Prince Gortchakow expressed a hope that I should not press it as a portion of country south of the Oxus was claimed by the Emir of Bokhara; and, as it might lead to differences between the Russian and English Governments, he preferred that Afghanistan should be looked upon as constituting the neutral ground which it was expedient to establish. || I remarked upon this, that the frontier of Afghanistan was ill defined, and that the Emir might attempt to bring under subjection the different Khanates which had formerly belonged to Afghanistan, and which I believe were now considered by Russia to be quite independent. || To this Prince Gortchakow replied, that the Emir was at perfect liberty to do so, and that no complaint would be made provided he did not attack the Emir of Bokhara or pursue a course of policy that might reasonably be considered aggressive against Russia. || I then adverted to the prohibitory policy in commercial matters that Russia was said to have adopted, and upon that point I said his Excellency must be aware that the British public would be very sensitive. Prince Gortchakow replied, that Russian trade, and particularly the trade in tea from Kiakta, must be protected; but he agreed with me, that a prohibitory tariff was untenable, and that the differential duty upon the teas of Assam ought not to exceed that which would cover the additional cost of transport for a distance which I believe is at least 1500 versts. || Prince Gortchakow said, that he should be glad to have the whole subject discussed with the Minister of Commerce by Mr. Forsyth, of whom he spoke highly, and whom he had invited to come to St. Petersburgh in October. He said he should endeavour to procure an audience for Mr. Forsyth with the Emperor, in order that he should be the bearer to the Indian Government of His Majesty's friendly and pacific assurances. || In conclusion, I asked leave to correct an error which appeared to exist at St. Petersburgh respecting Mr. Gladstone's speech in a recent debate in the House of Commons on Central Asia. Mr. Gladstone was supposed to have said, that Russia was unwilling to define what should be considered as a neutral ground, whereas Mr. Gladstone had stated that, although the question was not without difficulties, and had, therefore, not been definitively settled, yet there was on both sides an amicable willingness and desire to attain the end. Prince Gortchakow assured me, that he did not share the impression which had been conveyed to your Excellency, and that, to the best of his recollection, my report of Mr. Gladstone's speech was perfectly correct.

Nr. 5115.

GROSSBRITANNIEN. — Botschafter in St. Petersburg an den königl. Min. d. Ausw. — Fürst Gortschakow leugnet die Absicht einer Expedition gegen Chiwa.

St. Petersburgh, December 1, 1869.

Nr. 5115. Gross-britannien. 1. Dec. 1869.

My Lord! — I spoke to Prince Gortchakow yesterday of the alleged intention of the Russian Government to dispatch a military expedition to Khiva, and he denied positively the existence of any such intention, repeating what he had formerly stated as to the proposed establishment of a factory protected by a small garrison at Krasnovodsk, for the purpose of at once opening a shorter commercial route to Central Asia, and of acting as a warning to the Khan of Khiva, that he is within reach of punishment, if he renews his intrigues among the Kirghize; but unless such provocation is given, there is no idea, his Excellency said, of going to war with him and much less of occupying his country, the possession of which would only be an embarrassment to the Government. In support of this statement also, he read a despatch to the same effect which he had written to Baron Brunnow. I said, that I was glad to receive such a declaration, as an attack on Khiva had been spoken of by the Russian newspapers as a certain eventuality, and reports in confirmation of such a belief had been received by Her Majesty's Government from Persia and other sources. || His Excellency then observed that I might feel assured, he would never consent to an extension of the territory of the Empire, and that the Emperor even wished to withdraw from the advanced position already occupied in Bokhara. I answered, that I hoped he would maintain his present opinion on this subject with more firmness than when some years ago he considered Chemkend a good frontier, and he repeated, in reply, what he formerly said of the force of circumstances having at that time obliged the Government to annex territory beyond the limit they desired. I expressed a hope also that the Emperor's intention, to which he had referred, of retiring from Samarkand would be carried out, as such a measure would have a powerful influence in promoting tranquillity in Central Asia, but when I pressed him for an answer on this point, he spoke of the necessity of first obtaining guarantees against aggression in future from Bokhara, adding that he hoped, as the Bokharan Envoy now here had convinced himself of the power of Russia, and of her desire to live on friendly terms with the Ameer, that a satisfactory arrangement might be made on his return. I then intimated that accounts still reached Her Majesty's Government of the restless activity of Russian officers at Tashkend, and of the extraordinary proceedings of a certain M. Pervushine, a merchant there, who appeared to have unlimited influence with the local authorities; and, in

Nr. 5115. Grossbritannien. 1. Dec. 1869.

answer to this, his Excellency read an extract from a despatch he had lately sent to Baron Brunnow instructing him to mention to your Lordship, that recent reports had been received from Persia of the aggressive views of Shere Ali and of Afghan intrigues in Bokhara; but that he felt convinced that, even if there was some foundation for them, the facts had gained importance in the eyes of the writers from being seen through the mirage of distance. || In reporting this conversation to your Lordship I ought to add that Prince Gortchakow's language was so apparently sincere, that notwithstanding the strong grounds which exist for believing that an expedition is preparing against Khiva, I shall endeavour to hope that preparatory arrangements have only been made for the possible eventuality of resistance being offered by the Ameer to the proposed establishment at Krasnovodsk. || I have, etc.

Andrew Buchanan.

Nr. 5116.

GROSSBRITANNIEN. — Botschafter in St. Petersburg an den königl. Minister des Ausw. — Weitere Erklärungen des Fürsten Gortschakow über die Absichten betreffs Chiwa's.

St. Petersburgh, December 29, 1869.

Nr. 5116. Grossbritannien. 29. Dec. 1869.

My Lord! — With reference to my despatch of the 1st instant, reporting a conversation with Prince Gortchakow, in which he denied that the Russian Government had any intention of conquering the Khanate of Khiva, I have the honour to inform your Lordship that reports of military preparations for a campaign in these countries have reached me within the last few days from several sources, and that a large force would cross the Caspian in February under the command of General Heymann, a distinguished officer of great experience in Asiatic warfare, and march on Khiva from Krasnovodsk-Bay. || The object of the expedition was said to be conquest, and the creation of a new province on the left bank of the Oxus, which would extend to and absorb Bokhara. || It was also stated that the expedition would be accompanied by a flotilla on the Oxus, and that surveys of the country would be made on the march from Krasnovodsk-Bay for ascertaining the feasibility of connecting the Oxus by a railway with the Caspian. || Having taken means to seek further information on the subject, the result of the inquiries which I caused to be made left an impression that, though the report above referred to might be exaggerated, some measures are being taken by the War Department to have troops in readiness for employment in Central Asia. ||

I therefore called this morning on Prince Gortchakow, and having placed in his hands the inclosed extract from my despatch of the 1st instant, I asked whether it contained a correct report of his language and whether he was now able to confirm that language. His Excellency read the report aloud, expressing his entire approval of each passage as he read it, observing, however, on the statement that "he would not consent to an extension of the Empire," that it could only mean he would disapprove of it, as he could not prevent such an eventuality were the Emperor to decide in its favour, and he said that the restoration of Samarkand would depend upon whether General Kaufmann could effect a satisfactory arrangement with the Government of Bokhara. || I then stated that further reports had recently reached me of the intention of Russia to conquer Khiva, and, on his begging me not to believe any rumours of the kind, I asked him to read the memorandum, of which a copy is inclosed, containing the substance of the reports which I have above referred to. || After reading the first paragraph, he sent for M. Stremooukoff; and as he desired him to give me full explanations on the subject, I read the memorandum to them. They both declared the statement it contained to be untrue, adding, that they could have no other foundation than that something would be done to ascertain whether the theory that the Oxus might be restored to its former bed could be carried out, — a measure which Prince Gortchakow said would restore fertility to the country of the Turkomans, and might have the same success as the Suez Canal. || M. Stremooukoff said that, as a proof of the moderation of the Russian Government in their dealings with the Khan of Khiva, he might state that, though they had twelve intercepted letters of the Khan in their possession, exciting the Kirghize to rebellion, they have hitherto restricted themselves to calling upon him to give them the same securities for the protection of trade, and for his maintaining friendly relations with Russia, as they have already received from the Rulers of Bokhara and Kokand. He said, that General Kaufmann had addressed two letters to the Khan, making these demands, but no answer had yet been received from him; and, in the last, he had been warned that he must expect punishment, if he did not place his relations with Russia on a satisfactory footing. I said, in that case, it was probably true that a force was preparing for the contingency of its being deemed necessary to take active steps against the Khan, or perhaps, I said, arrangements are making for the relief of the troops employed in Central Asia; but M. Stremooukoff denied both suppositions. He said there were now, including troops and artificers, about 1000 men at Krasnovodsk-Bay, and that workmen in large numbers would doubtless be sent over in the spring from the Caucasus to construct buildings and to execute other works, and he looked forward to the place becoming an important commercial town. With respect to it, or rather to the country of the Turkomans, Prince Gortchakow observed that the Shah of Persia had never any better claim to it than the King of Italy to the

Nr. 5116. Gross-britannien. 29. Dec. 1869. Throne of Jerusalem; but the question had been discussed in Count Nesselrode's time, when Russia acknowledged Persian sovereignty to the Attrek, and held Persia responsible for the conduct of the Turkomans within that limit; "and now," he said, "the Persian Government has asked us for assurances which we have readily given, that we do not intend to build fortresses, or establish ourselves on the Attrek." || I then asked whether, in the event of these differences with Khiva leading to war, they believed that a military force could march from Krasnovodsk to the Oxus; and they both said they had no doubt upon the subject, as a caravan had arrived from Khiva; and, on my suggesting that what was accomplished by a caravan of sixty camels, might be impracticable for an army, they seemed to consider that the difficulties of the march could be easily overcome. || Prince Gortchakow said he was glad I had asked him for the explanations he had given me instead of transmitting reports to England which were incorrect, and which I might afterwards have to contradict, and, as I said I should always follow the same course, he answered I should find him always ready to give me confidential explanations on such subjects, if I did not demand them officially. He said, there is, doubtless, a desire among Russian military men, who wish to gain decorations, that we should make further conquests in Central Asia; but the Minister of War would maintain a perfect understanding with him, and the explanations which I had received ought to satisfy me that he had no wish to add new territories to the Empire. || He concluded by saying, that he might withhold information from me; but what he did tell me would be true. || I am, etc.

Andrew Buchanan.

Nr. 5117.

GROSSBRITANNIEN. — Botschafter in St. Petersburg an den königl. Min. d. Ausw. — Das Verhältniss zwischen Afghanistan und Buchara.

(Extract.) St. Petersburgh, February 8, 1870.

Nr. 5117. Gross-britannien. 8. Febr. 1870. I stated to Prince Gortchakow, in the language of your Lordship's despatch of the 29th ultimo, that, while the Ameer has readily accepted the advice of the Indian Government, he is himself under apprehension of hostile designs on the part of his neighbours, and more particularly on that of the Khan of Bokhara. I said I had been therefore instructed to invite his Excellency's serious attention to the subject, as the Indian Government, in return for the efforts they have made to prevent aggression on the countries

Nr. 5117. Gross-britannien. 8. Febr. 1870.

to the south of the Russian frontier, and all interference with Russia in Central Asia, consider that Her Majesty's Government have a right to suggest, that the Government of Russia should promise to use all its influence to save from menace and attack the territories of the present Ameer of Afghanistan. || His Excellency having sent for M. Stremooukoff, I said that fears entertained by Shere Ali of an attack on Badakshan had probably been the cause of a telegram from Lord Mayo, which I had recently communicated to M. Stremooukoff, inquiring when a report of the substance of Mr. Forsyth's conversation with the Russian authorities here might be expected to reach Tashkend, but they both treated as absurd the idea that Bokhara, „which hardly can maintain herself," should entertain aggressive views against her neighbours. I said to them, that news was often doubtless fabricated, and almost always exaggerated, in the East, but, however this might be, the Indian Government had heard that the Khan of Kokand was threatening Kashgar; that much importance was attached to an Afghan refugee having been made a colonel in the Emperor's service; and that Ismail Khan had written, in November last, to his brother, that, God willing, he would bring an army of Russians to trample Shere Ali's wives under the feet of elephants, and to expose his body on the Bala Hissar. I said, I only mentioned the latter statement to them as an example of the exaggerated and absurd hopes Orientals could form, or the mischievous lies they could propagate, in consequence probably of a little civility which might have been shown to them. || Prince Gortchakow and M. Stremooukoff having again repudiated the idea of Shere Ali having the slightest ground for apprehension, I said that if it can be shown that the Emperor of Russia is following a similar policy with the Government of India, and that the object of His Majesty's policy is to create on his frontiers a series of influential but not tributary or neutralized States, to secure to them national independence, and to put an end for ever to that state of conflict and internal disturbance which has for ages prevailed in those regions, the interests of civilization will be strengthened and possibly permanently consolidated; that the Viceroy had done all in his power to maintain peace on the frontier of Afghanistan, and that it therefore rests with the Government of the Emperor, by adopting the same course with regard to those countries which bound the Russian possessions in Central Asia as the Viceroy has taken towards Afghanistan, permanently to secure peace throughout their wide districts, which are influenced respectively by the Government of the Queen and that of His Imperial Majesty. || When I finished, M. Stremooukoff said, What you have read is our programme, and describes exactly what we desire, and are endeavouring to establish; and I closed the conversation by answering that I had great satisfaction in finding the views expressed by the two Governments were so entirely identical.

Nr. 5118.

GROSSBRITANNIEN. — Botschafter in St. Petersburg an den königl. Min. d. Ausw. — Unterredung mit dem Kaiser über Afghanistan und Krasnowodsk.

(Extract.) St. Petersburgh, February 25, 1870.

Nr. 5118. Gross-britannien. 25. Febr. 1870.

I said to the Emperor there was part of the East, in which I trusted that His Majesty's Government and that of the Queen might hope to act cordially together, and I could assure him that it would not be the fault of the Viceroy of India, if that hope were not realized. The Emperor answered, "Her Majesty's Government will believe, I trust, that I have no feeling of covetousness in Central Asia; but they must know from their own experience in India that our position there is one of extreme difficulty, in which our actions may not depend so much upon our own wishes as upon the course pursued towards us by the native States around us. I earnestly hope, however," he said, "that no new difficulties may arise on our eastern frontier, and that arrangements may be made for the maintenance of tranquillity, but should new conflicts arise with our restless neighbours, they will not be of our seeking." With reference to this subject, he said he believed Mr. Forsyth had left St. Petersburgh entirely satisfied with the assurances and explanations which had been given to him. I answered, that Mr. Forsyth had already reached India, and I had no doubt that the Viceroy would receive with satisfaction his reports of his visit to Russia; and, in the meanwhile, I might state to His Majesty that I had seen despatches to Her Majesty's Government from the Viceroy which showed that, if the policy of the Ameer of Afghanistan could effect it, the peace of Central Asia would be secured, as Shere Ali had not only received the most urgent advice to abstain from aggression against the States beyond his frontiers, but had given a positive promise to the Viceroy to follow it; and Lord Mayo therefore hoped that, if the States now more or less under Russian influence would respect the territories held by Shere Ali and inherited from his father, the normal state of war, which had so long prevailed in those regions of Asia, might be succeeded by a period of tranquillity favourable to the advancement of civilization and to the progress of their commercial relations with other countries. || His Majesty then spoke of the recent occupation of Krasnovodsk, which he seemed to consider did not actually amount to a conquest, as the territory had been almost without a sovereign. He said the most positive assurances had been given to Persia that the frontier of the Attrek would be respected, and that the only object of the occupation was to give security and obtain, if possible, increased facilities for commercial communications between the

Caspian and the Oxus by a route which had been already sometimes employed. I said I understood, that the authorities at Orenburg were of opinion that the proposed route would not offer the advantage which its advocates expected from it, and they might perhaps be right, as the apparently longest route to a place not unfrequently proved in practice the shortest one. But His Majesty said he believed that the representations received from Orenburg on this subject might be attributed to Provincial patriotism. || I asked whether it was true that there would be a difficulty in finding a sufficient supply of water at Krasnovodsk, and His Majesty said there was certainly a scanty supply of water where the troops had landed and that the old bed of the Oxus from which it had been hoped that water might have been procured was likely to furnish none. A supply could, however, be obtained, he said, at some distance in the interior, and I asked from what source, but His Majesty did not reply to the inquiry.

Nr. 5118. Grossbritannien. 25. Febr. 1870.

Nr. 5119.

GROSSBRITANNIEN. — Min. d. Ausw. an den königl. Botschafter in St. Petersburg. — Beilegung der Differenzen zwischen Afghanistan und Buchara.

Foreign Office, March 26, 1870.

Nr. 5119. Grossbritannien. 26. März 1870.

Sir! — From the latest accounts received from the Government of India it appears that circumstances which at one time gave rise to serious apprehensions of a breach between the Ameer of Bokhara and the Ameer Shere Ali are now in a fair way of being arranged. || The circumstances alluded to were the harbour and countenance reported to have been given in Bokhara to certain enemies of Shere Ali, and the asylum given in Afghan territory to Meer Surrah Beg, who had been in rebellion against the Ameer of Bokhara. || In December last it was reported, that Abdul Rahman, a nephew of Shere Ali and one of his enemies, had arrived at Bokhara, that he had been granted an allowance, and had, together with his cousin Ishak Khan, been appointed by the Ameer respectively, Governors of Kolab and Hissar. Some misunderstanding had about the same time arisen in consequence of the shelter stated to have been given in Afghan territory to Surrah Beg, who had been in rebellion against the Ameer of Bokhara, and who had on the approach of the Bokhara force sent to reduce him, fled across the Oxus. The Bokhara commander demanded his surrender, and threatened aggressive action in case his demand was refused: he was it appears supported by Jehandar Shah, the dispossessed Meer of Badakshan. Early in January it

Nr. 5119. Gross-britannien. 26. März 1870.

was reported, that a body of troops, consisting in great part of Afghan refugees, had crossed the Oxus, and that Jehandar Shah had occupied Jungee Killa in Badakshan. || Ameer Shere Ali is reported to have shown on that occasion how entirely he had accepted the policy of forbearance which the Indian Government had repeatedly impressed upon him, for, on hearing of Surrah Beg's flight, the menaces of the Bokhara commander and the attitude of Jehandar Shah, he gave instructions either to deport Surrah Beg as a state prisoner to Cabul, or to expel him from the Afghan territories, according as Abdul Rahman and Ishak Khan should be treated by the Ameer of Bokhara. He remonstrated against the return of Jehandar Shah to Badakshan, and gave orders to defend his territory, but not to meddle with frontiers or to interfere in any way with the territories or dependencies of the Ameer of Bokhara. The result of these remonstrances and defensive measures was the withdrawal of the Bokhara troops to the right bank of the Oxus, which river was acknowledged to be the boundary between the dependencies of Bokhara and of Afghanistan. || By the latest news received, it is reported that an envoy has been deputed to Cabul charged by the Ameer of Bokhara with the mission of establishing the relations between the two countries on a friendly footing, and especially of adjusting the border questions in a manner satisfactory to the Afghan Government. The Indian Government consider that the happier prospect opened of a cessation of misunderstandings tending to disturb peace on the Upper-Oxus would be finally secured, if the Russian Government were moved to signify in a marked and public manner to the Ameer of Bokhara their approval of the action now reported to have been taken by him, and were to desire that no countenance whatever should be given by the Ameer to any notorious enemies and opponents of the Ameer of Cabul. || You will urge upon Prince Gortchakow the policy of making a communication to the above effect to the Ameer of Bokhara. || I am, etc.

Clarendon.

Nr. 5120.

GROSSBRITANNIEN. — Botschafter in St. Petersburg an den königl. Min. d. Ausw. — Russlands Zustimmung zur Beilegung der Differenzen.

St. Petersburgh, April 5, 1870.

Nr. 5120. Gross-britannien. 5. April 1870.

My Lord! — At an interview yesterday with Prince Gortchakow I placed in his Excellency's hand your Lordship's despatch of the 26th ultimo on the relations of Bokhara and Cabul, and his Excellency appeared to read it with much interest, admitting generally the correctness of its statements, but inti-

Nr. 5120. Gross-britannien. 5. April 1870.

mating that the Russian Government had not yet received any information as to the Ameer of Bokhara having agreed to consider the Oxus as the boundary between his territories and those of Afghanistan. || He said he entirely concurred in the hope of the Indian Government that happier prospects had opened of a cessation of misunderstandings tending to disturb peace on the Upper-Oxus, and that he would not fail to signify to the Ameer of Bokhara the approval of the Russian Government of the friendly relations, which he is endeavouring to establish with Afghanistan, and to recommend him not to give countenance to any notorious enemies and opponents of the Ameer of Cabul. || His Excellency observed he would only, however, be repeating advice which had already been given to the Ameer of Bokhara, and he said also that, in consequence of my recent communications to him, he had written by the Emperor's order to General Kaufmann, instructing him to make it known everywhere in Central Asia, that a perfect understanding exists between the Governments of Great Britain and Russia with reference to the affairs and interests of these countries. || At his Excellency's request, I left your Lordship's despatch with him. || I have, etc.

Andrew Buchanan.

Nr. 5121.

GROSSBRITANNIEN. — Botschafter in St. Petersburg an den königl. Minister d. Ausw. — General Kaufmann's Verhalten gegen Abdul Rahman Khan.

St. Petersburgh, April 19, 1870.

Nr. 5121. Gross-britannien. 19. April 1870.

My Lord! — Prince Gortchakow communicated to me yesterday a Memorandum, of which I inclose a copy, drawn up in his Excellency's Chancery from letters of General Kaufmann, dated the 19th November / 1st December, the 7/19th February, and 17th February / 2nd March last, containing the substance of the communications which have taken place between General Kaufmann and Abdul Rahman Khan, who appears to have lately arrived at Samarkand with the intention of proceeding to Tashkend. || General Kaufmann, it is stated, in reply to offers of Abdul Rahman's influence in Afghanistan in favour of Russia and a request for support to establish his alleged rights there, caused him to be informed in November, that Russia being determined to abstain from all interference with the internal affairs of Afghanistan, any negotiations with him would be useless; and his Excellency will again decline categorically both his offers and his requests, and will declare to him that he can only be granted an asylum in the territories of Russia, on condition of his abstaining from intrigues and political projects, for the realization of which he will also be told that he

Nr. 5121. Gross-britannien. 19. April 1870.

must not in any way reckon on assistance from Bokhara. || I may take this opportunity of mentioning that, though messengers from Tashkend have been on some occasions forty-eight days on the road, an officer recently performed the journey in twenty-one days. || I have, etc.

Andrew Buchanan.

Beilage.

Abdul Rahman Khan, interné provisoirement par l'Emir de Boukhara dans la ville de Karchi, envoya au Général Kaufmann un homme de confiance et plusieurs lettres pour lui offrir son crédit et ses liaisons dans l'Afghanistan et pour lui demander en retour l'appui nécessaire à l'établissement de ses droits. Le Général lui fit répondre que la Russie était fermement résolue à ne point se mêler des affaires intérieures de l'Afghanistan, et que, par conséquent, toute négociation était superflue. || D'après les dernières nouvelles, malgré cette réponse décourageante, Abdul Rahman est arrivé à Samarkand et ne manquera pas d'aller jusqu'à Taschkent. Le Général Kaufmann se propose de décliner très catégoriquement ses offres, ainsi que ses demandes, et de lui déclarer que nous ne pourrions lui accorder qu'un asile, mais à la condition de son abstention absolue de toute intrigue et de tous projets politiques. Il lui déclarera, en outre, qu'il ne doit nullement compter sur Boukhara pour réaliser ces projets.

Nr. 5122.

GROSSBRITANNIEN. — Botschafter in St. Petersburg an den königl. Min. d. Ausw. — Russlands Unzufriedenheit mit Chiwa.

(Extract.) St. Petersburgh, June 14, 1870.

Nr. 5122. Gross-britannien. 14. Juni 1870.

I have the honour to inform your Lordship, that Prince Gortchakow, at an interview which I had with his Excellency to-day, said that Russia neither required nor desired to possess the Khanates. That at present the Ruler of Kokand was ready to act according to her wishes, and there was every prospect of her relations with Bokhara being placed on a friendly and satisfactory footing. Khiva alone, he said, seemed disposed to act hostilely towards her, and the Khan, who was suspected of having incited the late hostilities of the Kirghize at Manguishlak, had made an insolent communication to General Kaufmann through his so-styled Minister for Foreign Affairs. || It was not at all improbable, therefore, that measures might be taken to force him to accept the propositions which had been made to him.

Nr. 5123.

GROSSBRITANNIEN. — Botschafter in St. Petersburg an den königl. Min. d. Ausw. — Weitere Mittheilung über Chiwa.

St. Petersburgh, June 15, 1870.

Nr. 5123. Gross-britannien. 15. Juni 1870.

My Lord! — With reference to my despatch of yesterday's date, reporting a conversation with Prince Gortchakow on Central Asian Affairs, I have been informed that the letter of the Khan of Khiva's Minister for Foreign Affairs to General Kaufmann, states that Russia appears to believe that her greater Power gives her a right to dictate to her weaker, though independent neighbours; and that while Khiva denies that she has given Russia any just cause of complaint, she will meet her in arms, if she attempts to invade the territories of the Khanate; and as battles are decided by God, Russia may be mistaken in her confidence of victory. || It appears, that the Khan has sent an Embassy to Bokhara to propose an offensive and defensive alliance against Russia, and General Kaufmann has thought it necessary to dispatch an officer to Bokhara to ascertain what may be passing there, and to endeavour to keep the Ameer steady to his engagements with Russia. Prince Gortchakow spoke to me as if this Envoy had given a satisfactory report of the dispositions of the Ameer, but they are as yet unconfirmed. Statement has arrived of His Highness having decapitated the senior member of his late Embassy to St. Petersburgh. || The Kirghize insurrection in Manguishlak has not yet been suppressed, but I am still assured that, if tranquillity is restored on the Steppe, and no bands arrive from Khiva, the summer may be allowed to pass without any force being sent into the Khanate. || Perhaps, however, notwithstanding these assurances, there is more reason to believe that the long spoken of Khivan expedition will take place than that it will be postponed. || Prince Gortchakow tells me that General Kaufmann had written a letter to Shere Ali, of which M. Stremooukoff is instructed to send me a translation, explaining that Abdul Rahman Khan's presence at Tashkend has been permitted from mere feelings of hospitality towards the unfortunate, but not from any intention of supporting him as a rival to the Ameer, with whom the Russian Government wish to cultivate the same friendly relations as exist between England and Russia. || M. Stremooukoff has excused himself for not being able to send me a translation of the letter immediately as the only copy has been forwarded to the Emperor, but he promises that I shall receive one in a day or two. || I have, etc.

Andrew Buchanan.

Nr. 5124.

GROSSBRITANNIEN. — Min. d. Ausw. (nunmehr Earl Granville) an den königl. Botschafter in St. Petersburg. — Uebersendung einer Denkschrift der indischen Regierung über die Grenzfrage.

Foreign Office, July 6, 1870.

Nr. 5124. Gross-britannien. 6. Juli 1870.

Sir! — I transmit, for your Excellency's information, the accompanying copy of a despatch, as noted in the margin, respecting the policy of Russia in Central Asia. || I am, etc.

Granville.

Beilage.

The Governor-General of India in Council to the Duke of Argyll.

Simla, May 20, 1870.

My Lord Duke! — Since the receipt of your despatch of the 26th November, Mr. Forsyth has returned to India, and we have had much satisfaction in learning from him personally the friendly assurances given by His Majesty the Emperor of Russia, and by the Ministers of State, in respect of the policy of the Russian Government in Central Asia. || 2. In the inclosures of your despatch of the 6th August, 1869, we were informed that, at an interview with Mr. Forsyth at Baden-Baden, Prince Gortchakow "dilated with pleasure on the happy relations existing between Her Majesty's present Government and that of Russia, and expressed great satisfaction on hearing that the nonaggressive policy which had marked Sir J. Lawrence's viceroyalty was not likely to be departed from by Lord Mayo;" that he stated that "Russia had no intention of interfering with Herat, Cabul etc.;" that "if Shere Ali confined himself within his own dominions, he need fear no molestation from Russia;" and that "it was the determination of the Russian Government that there should be no quarrel between the two countries regarding the Asiatic boundaries." || 3. In the conversation with Lord Clarendon at Heidelberg on 3rd September, of which we were informed in Mr. Kaye's letter of the 17th September, 1869, Prince Gortchakow assured his Lordship "that we had no cause for apprehension" (of a difference between the two Governments in regard to Central Asia) "as the Emperor considered, and he entirely shared His Majesty's opinion, that extension of territory was extension of weakness, and that Russia had no intention of going further south;" that the determination of the British Government (of which Lord Clarendon informed him) to restrain Shere Ali from aggression on his neigh-

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bours "was quite sufficient and most satisfactory, and that he should have great pleasure in forthwith reporting it to the Emperor." ‖ 4. These assurances have been repeated to Her Majesty's Ambassador at St. Petersburgh, who, in his despatch to Lord Clarendon of 2nd November, quotes the language of Prince Gortchakow, which we extract in the margin [1]). We learn also from Mr. Forsyth and from his letters, of which copies were transmitted to us with your despatch of 26th November, that General Miliutine, the Russian Minister of War, and M. Stremooukoff, Director of the Asiatic Department of the Russian Foreign Office, "concurred in opinion that we should accept as Afghanistan all the provinces which Shere Ali now holds; that beyond this limit he should not exercise any influence or interference; that the good offices of England should be exerted to restrain him from all thought of aggression; and that similarly Russia should exercise all her influence to restrain Bokhara from transgressing the limits of Afghan territory;" that His Majesty the Emperor himself remarked, "that there was no intention of extending the Russian dominions;" and assented to the remark of Mr. Forsyth, "that whilst on our side every effort would be made to induce Shere Ali to keep within his present dominions, we hoped that Bokhara would be restrained from aggression." ‖ 5. We learn with pleasure from the inclosures of your despatch of the 4th March, that the Russian Government have expressed their adherence to the above assurances, and that M. Stremooukoff describes the policy sketched in our despatch, dated 7th December last, the substance of which was communicated to him by Sir A. Buchanan, as coinciding exactly with that which the Russian Government desire, and which they are endeavouring to establish. ‖ 6. We have great satisfaction in finding that the policy of Russia, thus frankly described, coincides so entirely with that laid down by us at Umballa, which was sanctioned by Her Majesty's Government, and to which we since consistently adhered; and we feel assured, that so long as this policy is acted on by the two great Governments, who may be said to divide political influence in Central Asia, the peace and prosperity of those vast and important regions will be permanently secured. ‖ 7. M. Stremooukoff has suggested, with a view to the further development of this peaceful policy, that measures should be taken by the British Government and by Russia to ascertain the limits of the territories which acknowledged the sovereignty of Dost Mahomed, and are at present under the Government of Shere Ali Khan, in order that the frontier between those territories and the neighbouring States of Central Asia should be as nearly as possible defined. ‖ 8. In our

[1]) "Pray, therefore," he added, "tell Lord Clarendon that, as both Governments are free from all *arrière-pensées*, ambitious views or unfriendly feelings towards each other, the more fully and frankly all questions connected with Central Asia are discussed between them the more effectually will the mist be blown away, which, through the misrepresentations of over-zealous subordinate agents, may at any time hang over them."

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telegram of 11th June, 1869, we have informed your Grace that, if the Ameer should show any disposition to extend his boundaries beyond the limits held by Dost Mahomed, we should remonstrate with him at once. The possessions of the present Ameer on the north and north-west appear to coincide almost exactly with those held by his father; and the limits of Dost Mahomed's kingdom may therefore be generally taken as the boundary which should divide the kingdom of Afghanistan from the other States of Central Asia to the north and north-west. || 9. We do not think it necessary to enter on any elaborate review of the rule of Dost Mahomed. The extent of his conquests in Afghan-Turkestan is, we believe, not disputed. Save during very short and exceptional periods, the Oxus has been the recognized boundary between Bokhara and Afghanistan; and in the negotiations between Dost Mahomed and the Ameer of Bokhara in 1859, the latter declared that, if the Afghans would refrain from interference with the Turkomans north of the Oxus, the Bokhara authorities would raise no claim regarding Badakshan, Maimana, and other States south of that river. Practically, the Oxus was the limit of the conquests of Dost Mahomed in the north, from the district of Balkh on the west to the extreme east of Badakshan. The right of the Ameer to Balkh is recognized in the Ist Article of the Treaty concluded with Dost Mahomed on 26th January, 1857. Its western boundary is the province of Kerki, which terminates near the ford of Khojah-Saleh; and Kerki and Charjui are admitted by Ameer Shere Ali to be Bokharian provinces and to march with his own provinces of Herat (including Maimana) and Balkh. || 10. From the western boundary of Balkh to the eastern limits of Badakshan, the entire country between the Oxus and the Hindu-Koosh, fell under the conquest of Dost Mahomed. In various campaigns between 1850 and 1855, Khulm, Maimana, Andkhoi, Shibergam, and Siripool were all conquered. Kunduz was annexed in 1859; Badakshan submitted the same year; and before his death in the trenches at Herat, on the 9th of June, 1863, the Dost had consolidated his power in all these territories. Practically, these form the Turkestan provinces now in the possession of Ameer Shere Ali Khan. || 11. The north-western boundary of what, in our opinion, ought to be considered Shere Ali's dominions, runs in a south-westerly direction from a point on the Oxus between Khojah-Saleh and Kerki, skirting and including the provinces of Balkh, Maimana with its dependencies of Andkhoi, etc., and Herat with its dependencies between the Murghab and the Herizrood. The northern boundary is the Oxus from the same point between Kerki and Khojah-Saleh eastward to Punjab and Wakkan, and thereafter the stream which passes Wakkan up to the point where the range of the Hindu-Koosh meets the southern angle of the Pamir-Steppe. || 12. In countries which have never been scientifically surveyed, and the boundaries of which have been liable to more or less fluctuation, it may be difficult to describe existing boundaries with perfect accuracy. But we are satisfied that the description

above given of the northern and north-western boundaries of Afghanistan, is sufficiently correct for all practical purposes; and we feel assured, that the inquiries, which General Kaufmann has been instructed to make, will not fail to establish the fact that these boundaries are consistent with present circumstances, and with the rights which the Ameer inherited from his father. We rely, therefore, with confidence on the pledges which the Russian Government have given, that they will use all legitimate means to save these territories from menace and attack on the part of the neighbouring States and Chiefs subject to Russian influence. || We have, etc.

Nr. 5124. Gross-britannien. 6. Juli 1870.

Mayo.
Napier of Magdala.
H. M. Durand.
J. Strachey.
R. Temple.
J. F. Stephen.
B. H. Ellis.

Nr. 5125.

GROSSBRITANNIEN. — Botschafter in St. Petersburg an den königl. Min. d. Ausw. — Vorläufige Antwort betreffs der Grenzfrage.

(Extract.) St. Petersburgh, July 13, 1870.

I have read to M. de Westmann the despatch from the Government of India, of which a copy was inclosed in your Lordship's despatch of the 6th instant, and I found, as I expected, that his Excellency was not prepared to express any opinion upon it, except his satisfaction that the two Governments appear to have arrived at a cordial understanding on the question to which it refers. || I have, however, also acquainted M. Stremooukoff, the Director of the Asiatic Department, with the contents of the despatch, and, while he assented to the correctness of its statements as to the explanations and assurances which have been exchanged by the two Governments respecting their policy in Central Asia, he appeared to accept as satisfactory the opinions expressed by the Government of India with regard to the boundaries of Afghanistan. The only doubt he expressed was as to the point from which the western boundary line should commence on the Oxus, as Khojah-Saleh is represented in Russian maps to be itself the western limit on the Oxus of Afghan-Turkestan. He asked whether I could communicate a copy of the despatch to the Russian Government, in order that it might be sent to General Kaufmann for his guidance, but this I declined to do, as I said it had been merely sent to me for my information. As it appears to me, not

Nr. 5125. Gross-britannien. 13. Juli 1870.

Nr. 5125. Gross-britannien. 13. Juli 1870.

only to define with sufficient precision the territories which are to be considered Afghan, but also to record clearly and distinctly the assurances which Her Majesty's Government have received from that of Russia, I think it of importance that I should be instructed to communicate a copy of it to M. de Westmann, with an intimation that Her Majesty's Government would be glad to learn, if the Government of the Emperor assent to the opinions which it expresses as to boundaries of the territories, which they will use all legitimate means to protect from aggression on the part of the neighbouring States and Chiefs subject to Russian influence. || With reference to this subject, I understand that the Emperor has stated to Prince Orloff, that he may confirm the assurances already given to Her Majesty's Government, that His Imperial Majesty is determined to permit no further extension of the territories of Russia in Central Asia, and that he will withdraw his troops from Samarkand as soon as the Ameer of Bokhara fulfils his engagements which he has contracted towards him; I have therefore asked M. Stremooukoff whether a sum of money, mentioned in the newspapers as having been sent by the Ameer to Tashkent, was a portion of the war indemnity, and whether much more remained due. He said it was true that an instalment of the indemnity had been paid, and that the question of the indemnity, he had little doubt, would soon be arranged; but it was more difficult, he said, to induce the Ameer to engage to punish acts of aggression on the Russian frontier, of which his subordinates might be guilty, so as to secure the Russian authorities from the risk of being obliged hereafter to have recourse to military expeditions in cases of the kind. I observed that, as this objection would apply to any frontier which might be established, I did not see how it should affect the restoration of Samarkand to the Ameer; and his Excellency said he hoped the difficulty might be got over by the Ameer agreeing not to appoint any one to the Government of Samarkand without General Kaufmann's approval of the appointment being previously obtained, and by his engaging to dismiss and punish the Governor so appointed, if his conduct towards the subjects of the Emperor should give occasion to just grounds of complaint. Under such an arrangement, however, the real sovereignty of the Province will apparently remain in the hands of Russia. || With respect to Khiva, I am told that the Khan still maintains a defiant attitude towards the authorities at Tashkend, and that he has ordered his subjects to suspend their commercial operations with Russia. Meanwhile military measures are in progress for repressing the late insurrectionary movements of the Kirghize in the south-western steppe, and it may be presumed that, if they retire towards the Khivan frontier, and are supported by sympathizers from the Khanate, the conflict, which has been long imminent, will occur.

Nr. 5126.

GROSSBRITANNIEN. — Botschafter in St. Petersburg an den königl. Min. d. Ausw. — Uebersendung eines Schreibens von General Kaufmann über Abdul Rahman Khan.

St. Petersburgh, August 4, 1870.

Nr. 5126. Gross-britannien. 4. Aug. 1870.

My Lord! — I have the honour to inclose herewith a translation of the extract of a letter from General Kaufmann to Prince Gortchakow, dated the 29th of June last, which has been communicated to me by M. de Westmann, reporting the language which he has held to Abdul Rahman Khan in answer to an attempt of that personage to persuade his Excellency, that it would not only be for the interests of Russia, but that it is absolutely indispensable, to secure her against the hostility of England, that he should be assisted to conquer the Throne of Cabul. || General Kaufmann states that he has informed the Sirdar that hospitality had been afforded to him by his Excellency in consideration of his destitute circumstances, and not as an enemy of England or a pretender to the Throne of Cabul; that the relations of Russia with England are of the most friendly and harmonious character; and that she wishes every possible prosperity to Shere Ali, who has never given her any cause for dissatisfaction. || I have, etc.

Andrew Buchanan.

Beilage.

General Kaufmann an Fürst Gortschakow.

(Extrait.) Le 17/29 juin 1870.

Il y a lieu de croire que la surexcitation des esprits, qui règne en ce moment dans les Khanats de l'Asie Centrale voisins de nos frontières, tient en partie à la conviction dont les peuples de ces pays, et principalement les Afghans, sont pénétrés, que tôt ou tard, grâce à une haine implacable et invétérée, les Russes et les Anglais doivent en venir aux mains en Asie. Plus d'une fois cette conviction a été exprimée par le Serdar Afghan Abdul Rahman Khan, et il a insisté sur ce point pour tâcher de me persuader que la Russie avait intérêt, voire même qu'il lui était absolument indispensable de l'aider, lui Abdul Rahman, à s'emparer du trône de Caboul. || En refusant au Serdar notre coopération, je lui fis entendre que si nous lui avons donné asile, ce n'est point comme à l'ennemi des Anglais ou à un prétendant au trône de Caboul; mais uniquement parcequ'il était dans le malheur, sans abri

Nr. 5126. Gross-britannien. 4. Aug. 1870.

ni foyer, dénué de toutes ressources pour subvenir à ses besoins et à ceux de ses proches. Je lui déclarai sans détours que nos rapports avec les Anglais, les protecteurs immédiats de Shir Ali Khan, son oncle, étaient empreints d'amitié et d'une parfaite harmonie; que pour ce qui regarde Shir Ali Khan, non seulement nous ne songeons point à lui faire la guerre, mais encore nous lui souhaitons toute sorte de prospérité, vu que dans ses rapports avec l'Emir de Boukhara et avec ses autres voisins il ne nous a jamais donné aucun sujet de mécontentement. || Bientôt après l'arrivée d'Abdul Rahman sur notre territoire, j'ai adressé à Shir Ali Khan une lettre dans ce sens. Depuis j'ai appris que cette lettre, expédiée par Balkh, a été reçue dans cette ville par le fils de Shir Ali Khan, qui l'a envoyée à son père à Caboul.

Nr. 5127.

GROSSBRITANNIEN. — Botschafter in St. Petersburg an den königl. Min. d. Ausw. — Erklärung zur Grenzfrage.

St. Petersburgh, August 18, 1870.

Nr. 5127. Gross-britannien. 18. Aug. 1870.

My Lord! — In conformity with the instructions conveyed to me in your Lordship's despatch of the 30th ultimo, I have communicated to Prince Gortchakow a copy of the despatch from the Government of India to the Duke of Argyll, of which a copy was transmitted to me in your Lordship's despatch of the 6th of July; and I left at the same time with his Excellency a memorandum, of which I inclose a copy, stating, with reference to a doubt expressed by M. Stremooukoff as to Khojah-Saleh being within the Afghan frontier, that if Khojah-Saleh be admitted to be within the territories of the Ameer of Cabul, Her Majesty's Government would not object to a definition of the frontier, by which the rights of Bokhara should be determined to commence at a point upon the left bank of the Oxus, immediately below that place. || I also stated to his Excellency that Her Majesty's Government would be glad to learn, if the Government of the Emperor acknowledged the correctness of the contents of the despatch of the Government of India, and his Excellency answered that, when M. Stremooukoff, who had been absent for a short time, returned to his duties in the Asiatic Department, this despatch would be taken into consideration. || I have, etc.

Andrew Büchanan.

Beilage.

Memorandum.

M. Stremooukoff having expressed a doubt as to Khojah-Saleh being within the territories of the Ameer Shere Ali Khan as stated in the accompanying despatch from the Government of India to the Duke of Argyll, dated Simla, May 20, 1870, Sir A. Buchanan has been informed by Lord Granville that, provided Khojah-Saleh be admitted to be within the Afghan frontier, Her Majesty's Government would not object to a definition of the frontier, by which the rights of Bokhara should be determined to commence upon the left bank of the Oxus immediately below that place.

Nr. 5127. Grossbritannien. 13. Aug. 1870.

St. Petersburgh, August 4/16, 1870.

Nr. 5128.

GROSSBRITANNIEN. — Botschafter in St. Petersburg an den königl. Min. d. Ausw. — Beabsichtigte Demonstration gegen Chiwa.

St. Petersburgh, April 19, 1871.

My Lord! — I understand that no change for the better has taken place in the relations of the Khan of Khiva with the Russian authorities in Central Asia, I am told therefore, that as soon as the season is sufficiently advanced for military operations, it is intended to make reconnaissances on the Khivan territory from Turkestan and from the Russian settlements on the Caspian; and, in the hope that these demonstrations may convince the Khan of the danger he incurs by declining an amicable arrangement with Russia, General Kaufmann will address another letter to him, when they are completed, offering terms of peace, before having recourse to more serious measures. I have, etc.

Nr. 5128. Grossbritannien. 19. April 1871.

Andrew Buchanan.

Nr. 5129.

GROSSBRITANNIEN. — Botschafter in St. Petersburg an den königl. Min. d. Ausw. — Zweck der Operationen gegen Chiwa.

(Extract.) St. Petersburgh, June 13, 1871.

With reference to my previous despatch of this date, reporting M. de Westmann's language respecting Khiva, I think it right to observe that, though no important expedition may be directed for the present against

Nr. 5129. Grossbritannien. 13. Juni 1871.

Nr. 5129. Grossbritannien. 13. Juni 1871. Khiva, the military operations which it is admitted are likely to take place have, doubtless, for their object to give Russia the command of the navigation of the Oxus. || The principal object of Russia it may be presumed, in any military operations she may now undertake on the frontier; or eventually adopt against Khiva, is to secure a safe commercial route to Central Asia, from the Caspian and her Transcaucasian provinces; and I understand that, when the Grand Duke Michael was last at St. Petersburgh his Imperial Highness strongly urged upon the Government the expediency of promoting a transit trade to the east through Poti, Krasnovodsk, and the Oxus. || It may be well also to remember that, in a conversation, which I had with M. de Stremooukoff, reported in my despatch of the 21st September last, respecting Khojah-Saleh, he said that the Afghan boundary from thence should be traced with great care, as Merve was becoming a place of considerable commercial importance.

Nr. 5130.

RUSSLAND. — Min. d. Ausw. an den kaiserl. Botschafter in London (Graf Brunnow). — Antwort in der Grenzfrage.

(Extrait.) St. Pétersbourg, le 1/13 novembre, 1871.

Nr. 5130. Russland. 13. Nov. 1871. Votre Excellence a été tenue exactement au courant des pourparlers auxquels les affaires de l'Asie Centrale ont donné lieu entre le Cabinet Impérial et le Gouvernement de Sa Majesté Britannique. || Elle n'ignore pas qu'à la suite des explications, que nous avons eues avec Mr. Forsyth, il avait été convenu en principe — || 1. Que l'on considérerait les territoires se trouvant actuellement en la possession effective de Shir Ali Khan comme formant les limites de l'Afghanistan. || 2. Que cet Emir ne chercherait à exercer aucune influence ni aucune immixtion au delà de ces limites, et que le Gouvernement Anglais appliquerait tous ses soins à le détourner de toute tentative d'agression. || Que de son côté le Gouvernement Impérial emploierait tout son influence afin d'empêcher l'Emir de Boukhara de porter aucune atteinte au territoire Afghan. || Ces principes avaient reçu la pleine adhésion du Cabinet de Londres et du Gouverneur-Général des Indes. || Au mois de mai 1870, M. l'Ambassadeur de Sa Majesté Britannique nous avait communiqué une dépêche de Lord Mayo qui, tout en exprimant cette adhésion, développait les principes posés, dans une direction qui nous a paru s'écarter sensiblement de la pensée sur laquelle on était tombé d'accord. || Je joins ici copie de cette pièce. Votre Excellence y relevera la nuance importante établie par Lord Mayo. || La section 4 de sa dépêche constate le principe

établi quant aux limites reconnues du territoire Afghan, c'est-à-dire, toutes les provinces possédées actuellement par Shir Ali Khan. || La section 6 témoigne sa satisfaction de voir la politique de la Russie coincider aussi parfaitement avec celle du Gouverneur-Général des Indes sanctionnée par le Gouvernement Britannique. || A la section 7, il adhère pleinement à l'idée que pour développer cette politique pacifique, le Gouvernement Russe et le Gouvernement Anglais prennent des mesures pour constater les limites des territoires qui reconnaissaient la souveraineté de Dost Mohammed Khan et sont actuellement en la possession de Shir Ali Khan. || A la section 8, il se refère à un télégramme annonçant que si Shir Ali Khan montre une disposition quelconque à étendre ses territoires au delà des limites possédées par Dost Mohammed Khan, le Gouvernement des Indes lui adressera des remontrances. Il ajoute que les possessions de l'Emir actuel au nord et au nord-ouest semblent coincider à-peu-près exactement avec celles de son père, et il conclut qu'en conséquence les limites du Royaume de Dost Mohammed Khan peuvent être, en général, adoptés comme les limites destinées à séparer le Royaume de l'Afghanistan des autres Etats de l'Asie Centrale au nord et au nord-ouest. || Ainsi dans la même dépêche, le point de départ de l'*uti possidetis* actuel de Shir Ali Khan, conduit par une transition insensible à l'adoption de l'état de possession de Dost Mohammed Khan comme limite naturelle de l'Afghanistan. || Cette nuance importante marque la différence qui sépare notre point de vue de celui de Lord Mayo. || Nous ne l'avons pas relevée jusqu'à présent en répondant d'une manière officielle à la dépêche de M. le Gouverneur-Général des Indes, par plusieurs raisons. || D'abord, toutes les données existantes sur l'état de ces contrées sont très vagues et incertaines. Le peu de témoignages indigènes que l'on possède ne méritent aucune créance. Les cartes sont problématiques, hypothétiques et souvent contradictoires. Nulle contrée n'offre une plus grande incertitude quant aux conditions géographiques et historiques présentes et passées. || Ensuite, il avait été convenu que la tâche de recueillir le plus de lumières possible sur la situation politique de ces pays serait confiée à M. l'Aide-de-camp Général Kaufmann, que sa proximité et ses contacts avec plusieurs d'entre eux mettaient à même de contribuer efficacement à élucider ces questions. Les instructions nécessaires lui ont été données et nous en attendons le résultat. || Enfin, dans la pensée du Cabinet Impérial, et nous aimons à la croire partagée par le Gouvernement de Sa Majesté Britannique, il ne s'agit point ici d'improviser un ordre de choses quelconque, mais d'assurer aux principes salutaires sur lesquels les deux Gouvernements sont si heureusement tombés d'accord, une exécution pratique et un développement ultérieur qui puissent en faire la base d'un système politique solide et permanent propre à garantir d'une manière durable la sécurité de leurs intérêts et de leurs relations réciproques, ainsi que la tranquillité et la prospérité des contrées interposées entre leurs possessions mutuelles. || Dans cet ordre d'idées, il nous a paru que l'essentiel n'était pas

Nr. 5130. Russland. 13. Nov. 1871. d'accélérer une issue quelconque au risque d'en compromettre la solidité en lui donnant pour base des données incomplètes et conjecturales qui pouvaient devenir plus tard la source d'interprétations divergentes. Nous avons jugé au contraire que, les principes généraux étant posés, le plus important était d'étudier d'abord avec la plus grande précision possible le terrain auquel ils devaient être appliqués, afin d'écarter pour l'avenir toute chance de malentendus et rendre ainsi l'accord des deux Gouvernements aussi solide dans la pratique qu'il était sincère et loyal dans leur pensée. || Toutefois Sir A. Buchanan étant revenu avec insistance sur ce sujet au moment de quitter la Russie, nous ne voulons pas différer plus longtemps de faire part au Gouvernement de Sa Majesté Britannique de notre point de vue sur une question qui nous intéresse au même degré.

Nr. 5131.

GROSSBRITANNIEN. — Botschafter in St. Petersburg (nunmehr Lord A. Loftus) an den königl. Min. d. Ausw. — Die Expedition gegen Chiwa.

St. Petersburgh, March 19, 1872.

Nr. 5131. Grossbritannien. 19. März 1872. My Lord! — I had an interview to-day with M. Stremooukoff, the Director of the Asiatic Department, and I inquired of his Excellency what news he had lately received from Bokhara and Central Asia. || He replied, that the reports as regarding Khiva were not satisfactory, the Khan continuing in the same hostile attitude as hitherto. He said, that General Kaufmann had made three appeals to him. To the first letter the Khan made no reply; and to the two latter ones he had answered in a tone of insolence and defiance. The Emir of Bokhara, at the instigation of General Kaufmann, had further sent an Envoy to the Khan of Khiva to expostulate with him, and in a friendly tone to advise him to come to an amicable arrangement with the Russian Government, instancing the benefit he had himself derived from the support and protection of Russia, citing also the increase of wealth and prosperity which his country had acquired by entertaining friendly relations with Russia. || The Khan of Khiva, from M. Stremooukoff's report, has turned a deaf ear to all these seductions, and defiantly resists the Russian demands. || In reply to my inquiry, M. Stremooukoff related a list of grievances against the Khan of Khiva: that he was in community with the nomadic tribes, who pillaged the caravans, and that he participated in the booty; that he sheltered these marauders; that Russian prisoners who had fallen into his hands were made prisoners, and otherwise ill-treated. "The difficulty we have," said M. Stremooukoff, "in dealing with Khiva, is the fact of its being so

weak. If we were to chastise the Khan, the whole fabric would fall like a pack of cards. We have done everything to bring the Khan to reason, but without any result." || He then stated that a reconnaissance had been already made on both sides of Khiva, from the side of the Caspian, and from Tashkend, and that the occupation of Khiva would offer no strategical difficulties. || From this conversation with M. Stremooukoff, I have gained the conviction that an expedition against Khiva is decided upon, and will be made by the Russian commander in Central Asia, as soon as the weather and circumstances permit. || I have, etc. Augustus Loftus.

Nr. 5131. Grossbritannien. 19. März 1872.

Nr. 5132.

GROSSBRITANNIEN. — Botschafter in St. Petersburg an den königl. Min. d. Ausw. — Zurückweisung der Gesandtschaft von Chiwa.

St. Petersburgh, May 16, 1872.

My Lord! — I had some conversation yesterday with M. Stremooukoff, the Director of the Oriental Department. In reply to my inquiry as to the reception of the Khivan Embassy, his Excellency stated that the Embassy which had gone northwards had reached Orenburg. The Khivan Envoy had been informed by the Military Governor there, that before any negotiation could be entered upon with the Khan of Khiva, the Imperial Government required that, first, all Russians who were prisoners at Khiva should be restored; secondly, that the Khan should address a proper letter to General Kaufmann, to whose communications he had hitherto replied in an improper tone; and thirdly, that the Khan should declare himself desirous of maintaining friendly relations with the Russian Government. || Until these conditions were fulfilled, no negotiations would be commenced, and they would only be carried on at Tashkend or at Tiflis, and not at St. Petersburgh. || The Khivan Envoy, after receiving this communication from the Governor of Orenburg, had returned to Khiva to report to the Khan. As yet no answer had been received, but it is thought that the Khan has been so alarmed at the near approach to Khiva which was made by a Russian reconnoitering party, and from the western side, which he least apprehended, that he will finally conform to the conditions of the Russian Government. || M. Stremooukoff added, that until a Treaty was signed with Khiva, no Embassy would be received at St. Petersburgh from the Khan. || The other Khivan Embassy will remain at the fort on the Caspian until the answer of the Khan has been received. || I have, etc. Augustus Loftus.

Nr. 5132. Grossbritannien. 16. Mai 1872.

Nr. 5133.

GROSSBRITANNIEN. — Min. d. Ausw. an den königl. Botschafter in St. Petersburg. — England dringt auf endliche Erledigung der Grenzfrage.

Foreign Office, October 17, 1872.

Nr. 5133. Gross-britannien. 17. Oct. 1872.

My Lord! — Her Majesty's Government have not yet received from the Cabinet of St. Petersburgh communication of the Report which General Kaufmann was long since instructed to draw up on the countries south of the Oxus which are claimed by the Ruler of Afghanistan as his hereditary possessions. || Her Majesty's Government have awaited this communication in full confidence that impartial inquiries instituted by that distinguished officer would confirm the views they themselves take of this matter, and so enable the two Governments to come to a prompt and definitive decision on the question that has been so long in discussion between them. || But as the expected communication has not reached them, and as they consider it of importance both for the maintenance of peace and tranquillity in Central Asia, and for removing all causes of misunderstanding between the Imperial Government and themselves, I will no longer delay making known through your Excellency to the Imperial Government the conclusion at which Her Majesty's Government have arrived after carefully weighing all the evidence before them. || In the opinion then of Her Majesty's Government the right of the Ameer of Cabul (Shere Ali) to the possession of the territories up to the Oxus as far down as Khoja-Saleh is fully established, and they believe, and have so stated to him through the Indian Government, that he would have a right to defend these territories if invaded. On the other hand, Her Majesty's authorities in India have declared their determination to remonstrate strongly with the Ameer should he evince any disposition to overstep these limits of his kingdom. || Hitherto the Ameer has proved most amenable to the advice offered to him by the Indian Government, and has cordially accepted the peaceful policy which they have recommended him to adopt, because the Indian Government have been able to accompany their advice with an assurance that the territorial integrity of Afghanistan would in like manner be respected by those Powers beyond his frontiers which are amenable to the influence of Russia. The policy thus happily inaugurated has produced the most beneficial results in the establishment of peace in the countries where it has long been unknown. || Her Majesty's Government believe, that it is now in the power of the Russian Government, by an explicit recognition of the right of the Ameer of Cabul to these territories which he now claims, which Bokhara herself admits to be his, and which all evidence as yet produced shows to be in his actual and effectual possession, to assist

the British Government in perpetuating, as far as it is in human power to do so, the peace and prosperity of those regions, and in removing for ever by such means all cause of uneasiness and jealousy between England and Russia in regard to their respective policies in Asia. ‖ For your Excellency's more complete information I state the territories and boundaries which Her Majesty's Government consider as fully belonging to the Ameer of Cabul, viz.: — ‖ (1.) Badakshan, with its dependent district of Wakhan from the Sarikal (Woods-Lake) on the east to the junction of the Kokcha-River with the Oxus (or Penjah), forming the northern boundary of this Afghan province throughout its entire extent. ‖ (2.) Afghan Turkestan, comprising the districts of Kunduz, Khulm, and Balkh, the northern boundary of which would be the line of the Oxus from the junction of the Kokcha-River to the post of the Khoja-Saleh, inclusive, on the high road from Bokhara to Balkh. Nothing to be claimed by the Afghan Ameer on the left bank of the Oxus below Khoja-Saleh. ‖ (3.) The internal districts of Aksha, Seripool, Maimenat, Shibberjan, and Andkoi, the latter of which would be the extreme Afghan frontier possession to the north-west, the desert beyond belonging to independent tribes of Turcomans. ‖ (4.) The western Afghan frontier between the dependencies of Herat and those of the Persian province of Khorassan is well known and need not here be defined. ‖ Your Excellency will give a copy of this despatch to the Russian Minister for Foreign Affairs. ‖ I am, etc.

Nr. 5133. Gross-britannien. 17. Oct. 1872.

Granville.

Nr. 5134.

RUSSLAND. — Min. d. Ausw. an den kaiserl. Botschafter in London. — Russland bestreitet, dass Badakschan und Wachan zu Afghanistan gehören.

St. Pétersbourg, le 7/19 décembre, 1872.

M. le Comte! — Votre Excellence a déjà reçu copie de la dépêche de Lord Granville du 17 octobre que Lord A. Loftus nous a communiquée d'ordre de son Gouvernement. ‖ Elle a trait aux affaires de l'Asie Centrale. ‖ Avant d'y répondre, il est nécessaire de rappeler la marche de nos pourparlers avec le Cabinet Anglais sur cette question. ‖ Les deux Gouvernements étaient animés d'un égal désir de prévenir entre eux tout sujet de dissentiment dans cette partie de l'Asie. Il voulaient tous deux y établir un ordre de choses qui y assurât la paix et consolidât leurs relations d'amitié et de bonne intelligence. ‖ A cet effet ils étaient tombés d'accord sur l'opportunité de laisser subsister entre leurs possessions respectives une certaine zône

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intermédiaire qui les préservât d'un contact immédiat. || L'Afghanistan ayant paru devoir remplir ces conditions, il avait été convenu que les deux Gouvernements emploieraient l'influence dont ils disposent sur les Etats placés dans leur voisinage afin d'empêcher toute collision et tout empiètement en deçà ou au delà de cette zône intermédiaire. || Il s'agissait seulement d'en tracer la limite précise pour que l'entente des deux Cabinets fut aussi complète en pratique qu'elle l'était en principe. || Là des doutes s'élevaient. || Le fondateur de l'Etat Afghan, Dost Mohammed Khan, avait laissé après lui une confusion qui ne permettait pas de prendre pour base l'extension territoriale acquise à de certains moments pendant son règne par l'Afghanistan. || On était en conséquence convenu de s'en tenir aux territoires qui auraient jadis reconnu l'autorité de Dost Mohammed et se trouveraient encore aujourd'hui en la possession effective de Shir Ali Khan. || Il restait à constater cet état de possession avec l'exactitude désirable. || A cet effet il était nécessaire d'avoir des données locales positives qui manquaient aux deux Gouvernements à l'égard de ces contrées lointaines et imparfaitement connues. || Il fut convenu que le Gouverneur-Général du Turkestan serait chargé de profiter de sa résidence à proximité et de ses relations avec les Khanats voisins, pour faire recueillir tous les renseignements qui pouvaient éclaircir la question et permettre aux deux Gouvernements de se former une opinion pratique en pleine connaissance de cause. || Tel est, M. le Comte, ainsi que votre Excellence s'en souviendra, le point où en étaient arrivés nos pourparlers avec le Cabinet Anglais. || Conformément à ces décisions M. l'Aide-de-camp Général de Kaufmann avait pris les mesures possibles pour procéder à cette investigation préalable. Mais la difficulté des distances, l'extrême complication des points à élucider, le manque des sources authentiques et l'impossibilité d'une enquête directe, ne lui ont pas permis de remplir cette tâche avec la promptitude que nous aurions désirée non moins que le Gouvernement de Sa Majesté Britannique. De là les retards que signale la dépêche de Lord Granville. || Toutefois nous avons déjà fait observer que ces retards provenaient de l'attention sérieuse vouée par le Cabinet Impérial à cette affaire. Il eut été facile de se borner à des notions recueillies à la légère et qui plus tard seraient devenues la source de malentendus. Nous avons préféré étudier consciencieusement la question, puisqu'il s'agissait de donner une base solide et durable à l'organisation politique de l'Asie Centrale et aux bonnes et amicales relations que, sur cette base, les deux Gouvernements avaient en vue d'établir entre eux pour le présent et pour l'avenir. || Au commencement du moi d'octobre dernier, le Ministère Impérial avait été dans le cas d'annoncer à Lord A. Loftus et à votre Excellence que le Conseiller d'Etat actuel Struve, chargé de ces investigations, venait enfin d'arriver à St. Pétersbourg, et qu'aussitôt que les matériaux rassemblés par lui auraient été élaborés, le résultat en serait communiqué au Cabinet de Londres. || C'est pendant que ce travail se poursuivait que nous avons reçu communication de la dépêche de Lord Gran-

ville qui nous a fait connaître l'opinion à laquelle le Gouvernement de Sa Majesté Britannique a cru devoir s'arrêter sur les points en discussion. || Le Cabinet Impérial se maintenant dans l'esprit de l'accord établi en principe entre les deux Gouvernements, ne se croit pas moins en devoir de transmettre au Gouvernement de Sa Majesté Britannique les renseignements recueillis sur les lieux par ordre de M. le Gouverneur-Général du Turkestan, et d'exposer en toute franchise les conclusions qui lui paraissent en découler. || Les unes et les autres sont consignées dans l'office ci-joint en copie que M. l'Aide-de-camp Général de Kaufmann vient de m'adresser et dans le mémoire qui y sert d'annexe. || Je vais les résumer: — || La question qu'il s'agissait de résoudre avait deux aspects. || 1. Constater l'état de possession effectif actuel, autant qu'il est possible de l'établir dans ces contrées. || 2. Rechercher, en se basant sur ce *statu quo*, la meilleure délimitation à tracer, afin de répondre au but des pourparlers actuels; c'est-à-dire, d'écarter dans la mesure du possible les causes de conflits et d'empiètements mutuels entre les Khanats voisins, et, par conséquent, de garantir entre eux, autant que faire se peut, l'état de paix que de part et d'autre les deux Gouvernements devraient désormais s'attacher à faire respecter par tous les moyens d'influence dont ils disposent. || Dans ces deux ordres d'idées, il résulte de l'étude qui a été faite: — || 1. Qu'au nord, l'Amou-Daria constitue en effet la frontière normale de l'Afghanistan à partir de son confluent avec la Kouktcha jusqu'au point de Khodja-Saleh. || Sous ce rapport nos données sont d'accord avec l'opinion du Gouvernement de Sa Majesté Britannique, et la frontière dont il s'agit semble d'autant plus rationnelle qu'elle n'offre pas matière à contestations de la part des riverains de l'Amou-Daria. || 2. Au nord-est, les données de fait que nous avons recueillies assignent le confluent de cette rivière avec la Kouktcha comme la limite des territoires sur lesquels Shir Ali Khan exerce une souveraineté effective incontestable. Au delà de cette limite, et notamment à l'égard du Badakchan et du Vakhan, il a été impossible de saisir les traces d'une semblable souveraineté, — l'ensemble des informations présente au contraire de nombreux indices qui doivent faire envisager ces contrées comme indépendantes. Dans la communication du Gouvernement de Sa Majesté Britannique qui nous a été faite au mois de novembre dernier, on voit que d'après le témoignage du Major Montgoméry, l'Emir de Caboul a "une autorité considérable" dans le Badakchan, et que les Afghans ont "aidé Mahmood Shah à renverser le Mir ou chef de ce pays, Jehandar Shah;" mais ces faits eux-mêmes semblent indiquer l'indépendance réelle du Badakchan plutôt que sa sujétion effective à l'Emir de Caboul. Les informations recueillies par M. Struve et consignées dans son mémoire confirment cette conclusion. Elles mentionnent, il est vrai, des interventions de l'Emir Afghan dans les querelles intérieures du Badakchan et des tentatives pour faire payer son assistance par une espèce de tribut; mais on ne rencontre point les signes qui, en Asie, accompagnent l'exercice de la souve-

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raineté, c'est-à-dire, la présence dans le pays d'officiers Afghans, et d'employés pour collectionner l'impôt. Les chefs du Badakchan se sont considérés, et ont été considérés par leurs voisins, comme des chefs indépendants. || Il résulte de là qu'on peut tout au plus admettre que l'Emir de Caboul a cherché à diverses reprises à faire entrer le Badakchan sous sa domination, qu'il a exercé plusieurs fois dans les affaires de ce pays, à la faveur de discordes intestines, une ingérence basée sur le voisinage et la supériorité de ses forces, mais qu'il est impossible d'en déduire l'existence d'une autorité souveraine effective et incontestée. Quant au Vakhan, ce pays paraît être resté jusqu'à présent encore plus en dehors de toute action directe des chefs de l'Afghanistan. || Il reste à examiner si, dans cet état de choses, et vû le but que nous poursuivons en commun, c'est-à-dire l'établissement dans ces contrées d'une paix solide sous la garantie des deux Gouvernements, il convient de reconnaître à l'Emir de Caboul les droits qu'il revendique sur le Badakchan et le Vakhan, et de faire entrer ces deux pays dans la délimitation territoriale de l'Afghanistan. || Tel n'est pas l'avis de M. l'Aide-de-camp Général Kaufmann, et le Cabinet Impérial arrive aux mêmes conclusions. | Dans l'état actuel des choses il n'existe pas de conflits entre le Badakchan et ses voisins. Le Boukhara n'a aucune prétention sur ce pays. Les deux Etats sont d'ailleurs trop faibles, trop absorbés par leurs propres affaires, pour se chercher querelle. L'Angleterre et la Russie n'auraient donc à s'employer que pour maintenir cet état de paix aussi bien entre ces Khanats qu'entre l'Afghanistan et le Badakchan, et cette tâche ne semblerait pas au-dessus de leurs moyens. Il en serait tout autrement le jour où l'Emir de Caboul étendrait son autorité sur le Badakchan et le Vakhan. Il se trouverait en contact immédiat avec le Kachgar, le Kokand et le Boukhara, dont il est séparé aujourd'hui par ces deux pays. Il serait dès lors bien plus difficile d'éviter des conflits provenant soit de son ambition et du sentiment de sa force, soit de la jalousie de ses voisins. || Ce serait fonder sur une base bien précaire la paix qu'il s'agit d'établir dans ces contrées, et compromettre la garantie que les deux Gouvernements seraient appelés à y donner. || Cette combinaison nous semblerait, par conséquent, aller directement contre le but qu'ils poursuivent en commun. || Il nous paraîtrait beaucoup plus conforme à ce but de laisser subsister l'état actuel des choses. Le Badakchan et le Vakhan formeraient ainsi une barrière interposée entre les Etats du Nord et ceux du Sud de l'Asie Centrale, et cette barrière, fortifiée par l'action combinée que l'Angleterre et la Russie sont en mesure d'exercer sur ceux de ces Etats accessibles à leur influence, empêcherait efficacement tout contact dangereux et assurerait à notre avis, dans la mesure du possible, la paix de ces contrées. || 4. Quant aux limites à reconnaître à l'Afghanistan du côté du nord-ouest, à partir de Khodja-Saleh, nos informations signalent également des doutes sur les faits de la possession effective par l'Emir de Caboul des villes d'Aktchi, Seripoul, Meimané, Chibirgan et Ankhoï, qu'il

s'agit de faire entrer dans les limites reconnues de l'Afghanistan. || Toutefois, ces pays étant séparés du Boukhara par des déserts, leur annexion au territoire Afghan n'établirait pas les contacts dangereux que nous avons signalés du côté nord-est. Elle ne présenterait, par conséquent, pas les mêmes inconvénients. || Si le Gouvernement de Sa Majesté Britannique persiste dans son opinion quant à l'opportunité de comprendre ces localités dans les limites du territoire Afghan, nous n'insisterons pas sur le principe posé; c'est-à-dire, de ne reconnaître comme faisant partie de l'Afghanistan que les territoires ayant été sous la domination de Dost Mohammed Khan et se trouvant aujourd'hui sous l'autorité effective de Shir Ali Khan. || Par déférence pour le voeu du Gouvernement de Sa Majesté Britannique, le Cabinet Impérial serait disposé à adhérer pour cette partie des frontières au tracé indiqué dans la dépêche de Lord Granville. || Tel est, M. le Comte, le résumé des conclusions que nous croyons pouvoir tirer des données que nous possédons. || Veuillez les placer sous les yeux de M. le Principal Secrétaire d'Etat de Sa Majesté Britannique. || En les communiquant à son Excellence, notre intention n'est pas seulement de dégager notre promesse. Nous croyons répondre à la pensée qui a présidé dès le début à l'échange amical d'idées établi entre les deux Gouvernements en cherchant à résoudre de la manière la plus rationnelle une question qui les intéresse également. || Recevez, etc.

Gortchakow.

Beilage.

General Kaufmann an Fürst Gortschakow.

(Traduit du Russe.) St. Pétersbourg, le 29 novembre, 1872.

J'ai l'honneur de soumettre ci-près à votre Altesse un mémoire sur la question de la frontière septentrionale de l'Afghanistan. Ce mémoire a été élaboré sur la base des quelques données et matériaux que j'ai réussi à réunir, dans le courant des deux dernières années, au sujet de la situation des affaires sur la frontière de l'Afghanistan et du Boukhara et sur les Etats indépendants du cours supérieur de l'Amou-Daria. || Ces données, je l'avoue, sont loin d'être complètes. || L'investigation ou l'observation personnelle, exercée sur les lieux mêmes, est en Asie Centrale l'unique moyen d'obtenir des éclaircissements sur une question quelconque, soit de politique, soit de géographie. Je n'ai pas, jusqu'ici, eu recours à ce moyen. L'envoi d'un employé Russe dans ces contrées, fût-ce même sous prétexte d'une mission scientifique, aurait pu jeter l'alarme dans l'Afghanistan et aurait éveillé des soupçons et des appréhensions de la part du Gouvernement des Indes. J'ai dû éviter tout ce qui aurait pu nuire, en quoi que ce fût, à l'état satisfaisant

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de nos relations établies à la suite de l'échange d'idées amical et sincère qui a eu lieu entre le Gouvernement Impérial et celui de Sa Majesté Britannique. || J'ai déjà eu l'honneur de communiquer à votre Altesse mon opinion sur une des causes de la fermentation des esprits dans les Khanats de l'Asie Centrale limitrophes et voisins de la Russie. C'est que tous nos voisins, et particulièrement les Afghans, sont pénétrés de la conviction qu'entre la Russie et l'Angleterre il y a une inimitié qui, tôt ou tard, nous amènera à une rencontre avec les Anglais en Asie. || En me conformant aux intentions et aux vues du Ministère des Affaires Etrangères je me suis attaché à faire disparaître ce spectre d'un conflit, soi-disant imminent, des deux grandes Puissances. Dans mes relations avec le Kokand et le Boukhara, et surtout dans mes lettres à Shir Ali Khan, j'ai toujours parlé de la conformité de vues et de l'amitié qui existe entre nous et l'Angleterre, et je me suis attaché à démontrer que ces deux Puissances, la Russie comme l'Angleterre, sont également soucieuses de la tranquillité des contrées et des populations qui se trouvent dans le rayon de leur influence et de leur protection. Voilà la raison qui, jusqu'ici, m'a déterminé à ne pas envoyer sur les lieux des employés dans le but d'obtenir des éclaircissements sur les questions qui m'étaient posées par le Ministère Impérial. || Cette situation est tout aussi avantageuse pour nous que pour l'Angleterre. Mais elle peut changer du moment où l'on garantirait à Shir Ali Khan ses possessions dans les limites proposées actuellement par Lord Granville dans sa dépêche à Lord A. Loftus, en date du 5/17 octobre dernier. Une pareille garantie lui donnerait un prestige considérable, et il tâcherait immédiatement de s'emparer *de facto* des territoires qui lui auraient été ainsi concédés. Avant tout, son attention se tournerait du côté du Badakchan et du Vakhan, butin le plus facile et le plus abordable. Par l'acquisition de ces deux territoires il prolongerait sa ligne de contact avec le Boukhara, et il se trouverait côté-à-côté avec le Karatéguine, d'où le Kokand est à portée de main. Enfin, il toucherait, sur ses confins nord-est, aux possessions de Yakoub-Bek. Voilà un chemin qui mène tout droit à une collision avec la Russie. || Si le Gouvernement Britannique est en effet animé du même désir que nous de maintenir la paix et la tranquillité intérieures dans les Khanats qui nous séparent des possessions Anglaises dans l'Inde; si les Anglais veulent ajouter foi à nos sincères protestations que nous ne songeons même pas à entreprendre quoi que ce soit d'hostile contre leurs possessions de l'Inde, le simple bon sens devra leur suggérer la nécessité de reconnaître l'indépendance du Badakchan et du Vakhan, tant par rapport à l'Emir de Caboul que par rapport à celui du Boukhara.

Nr. 5135.

GROSSBRITANNIEN. — Min. d. Ausw. an den königl. Botschafter in St. Petersburg. — Graf Schuwaloff's Mission zum Ausgleich der Differenz.

Foreign Office, January 8, 1873.

Nr. 5135. Gross- britannien. 8. Jan. 1873.

My Lord! — Having received information from your Excellency and from Count Brunnow, that Count Schouwalow, a statesman enjoying the full confidence of the Emperor of Russia, had left St. Petersburgh for London at the desire of His Imperial Majesty, I had the pleasure of receiving his Excellency on the 8th instant. || He confirmed the fact, that it was by the Emperor's desire that he had sought a personal interview with me. It had caused great surprise to His Imperial Majesty to learn from various sources, that a certain amount of excitement and susceptibility had been caused in the public mind of this country on account of questions connected with Central Asia. || The Emperor knew of no questions in Central Asia which could affect the good understanding between the two countries. It was true, that no agreement has been come to as to some of the details of the arrangement concluded by Lord Clarendon and Prince Gortchakow on the basis of Mr. Forsyth's recommendations as to the boundaries of Afghanistan; but the question ought not to be a cause to ruffle the good relations between the two countries. His Imperial Majesty had agreed to almost everything that we had asked. There remained only the point regarding the provinces of Badakshan and Wakhan. There might be arguments used respectively by the Departments of each Government, but the Emperor was of opinion that such a question should not be a cause of difference between the two countries, and His Imperial Majesty was determined that it should not be so. He was the more inclined to carry out this determination in consequence of His Majesty's belief in the conciliatory policy of Her Majesty's Government. || Count Schouvalow added, on his own part, that he had every reason to believe, if it were desired by Her Majesty's Government, the agreement might be arrived at a very early period. || With regard to the expedition to Khiva, it was true that it was decided upon for next spring. To give an idea of its character it was sufficient to say, that it would consist of four and a-half battalions. Its object was to punish acts of brigandage, to recover fifty Russian prisoners, and to teach the Khan that such conduct on his part could not be continued with the impunity in which the moderation of Russia had led him to believe. Not only was it far from the intention of the Emperor to take possession of Khiva, but positive orders had been prepared to prevent it, and directions given that the conditions imposed should be such as could not in any way lead to a prolonged occupancy of Khiva. || Count Schouvalow repeated the

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surprise which the Emperor, entertaining such sentiments, felt at the uneasiness which it was said existed in England on the subject, and he gave me most decided assurance that I might give positive assurances to Parliament on this matter. || With regard to the uneasiness which might exist in England on the subject of Central Asia, I could not deny the fact to Count Schouvalow; the people of this country were decidedly in favour of peace, but a great jealousy existed as to anything which really affected our honour and interest; that they were particularly alive to anything affecting India; that the progress of Russia in Asia had been considerable, and sometimes as it would appear, like England in India and France in Algeria, more so than was desired by the Central Governments; that the Clarendon and Gortchakow arrangement, apparently agreeable to both Governments, had met with great delay as to its final settlement; that it was with the object of coming to a settlement satisfactory to both countries, and in a friendly and conciliatory spirit, that I had addressed to your Excellency the despatch of the 17th October. || The only point of difference, which now remained as Count Schouvalow had pointed out, concerned Badakshan and Wakhan. In our opinion, historical facts proved that these countries were under the domination of the Sovereign of Cabul, and we have acknowledged as much in public documents; that, with regard to the expedition to Khiva, Count Schouvalow was aware that Lord Northbrook had given the strongest advice to the Khan to comply with the reasonable demands of the Emperor, and if the expedition were undertaken and carried out with the object and within the limits described by Count Schouvalow, it would meet with no remonstrance from Her Majesty's Government, but it would undoubtedly excite public attention, and make the settlement of the boundary of Afghanistan more important for the object which both Governments had in view, viz., peace in Central Asia, and good relations between the two countries. || As to coming to a decision at an early date, it appeared to me desirable, inasmuch as it would bear a different aspect if arrived at in the spirit, with which both Governments were actuated, and not complicated by possible discussions raised in the British Parliament. || I concluded by telling Count Schouvalow, that I knew the confidence which was placed in him by the Emperor, and that I felt sure that my colleagues would agree with me in appreciating his visit to England, as a gratifying proof of the eminently conciliatory and friendly spirit, with which the Emperor desired to settle without delay the question at issue. || I am, etc.

Granville.

Nr. 5136.

GROSSBRITANNIEN. — Min. d. Ausw. an den königl. Botschafter in St. Petersburg. — Nochmalige Darlegung der englischen Ansicht über die Grenzfrage.

Foreign Office, January 24, 1873.

Nr. 5136. Gross-britannien. 24. Jan. 1873.

My Lord! — Her Majesty's Government have attentively considered the statements and arguments contained in Prince Gortchakow's despatch of the 7/19th December, and the papers that accompanied it, which were communicated to me by the Russian Ambassador on the 17/29th December, and to your Excellency by Prince Gortchakow on the 29th of that month. || Her Majesty's Government gladly recognize, in the frank and friendly terms of that despatch, the same spirit of friendliness as that in which, by my despatch of the 17th of October, I desired to convey through your Excellency to the Russian Government the views of that of Her Majesty in regard to the line of boundary claimed by Shere Ali, the Ruler of Cabul, for his possessions of Afghanistan. || Her Majesty's Government see with much satisfaction, that, as regards the principal part of that line, the Imperial Government is willing to acquiesce in the claim of Shere Ali, and they rely on the friendly feelings of the Emperor when they lay before him, as I now instruct your Excellency to do, a renewed statement of the grounds, on which they consider that Shere Ali's claim to the remainder of the line of boundary referred to in my despatch of the 17th of October, to be well-founded. || The objections stated in Prince Gortchakow's despatch apply to that part of Shere Ali's claims, which would comprise the province of Badakshan with its dependent district of Wakhan within the Afghan State. The Imperial Government contend, that the province of Badakshan with its dependency, not having been formally incorporated into the territories of Shere Ali, is not legitimately any portion of the Afghan State. || To this Her Majesty's Government reply, that the Ameer of Cabul having attained by conquest the sovereignty over Badakshan, and having received in the most formal manner the submission of the chiefs and people of that province, had the right to impose upon it such a form of Government as he might think best adapted to the position of affairs at the time. In the exercise of this right he appointed a Local Governor, and he consented experimentally to receive a fixed portion of the revenues of the country, instead of taking upon himself its general financial and other administration. But the Ameer expressly reserved to himself the right of reconsidering this arrangement, which was, in the first instance, made only for one year, of at any time subjecting Badakshan to the direct Government of Cabul, and of amalgamating the revenues thereof with the general revenue of the Afghan State. Her Majesty's Government cannot perceive anything in

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these circumstances calculated to weaken the claims of Shere Ali to the absolute sovereignty of Badakshan. The conquest and submission of the Province were complete; and it cannot reasonably be urged that any experimental form of administration which the Ameer, with the acknowledged right of sovereignty, might think fit to impose on Badakshan, could possibly disconnect the province from the general territories south of the Oxus, the sovereignty of which the Russian Government has without hesitation recognized to be vested in the Ameer of Cabul. || Her Majesty's Government have not failed to notice in portions of the statements of the Russian Government to which I am now replying, that its objection to admitting Badakshan and Wakhan to be under the sovereignty of Shere Ali is rested in part on an expressed apprehension lest their incorporation with the remainder of Afghanistan should tend to disturb the peace of Central Asia, and specifically should operate as an encouragement to the Ameer to extend his possessions at the expense of the neighbouring countries. I alluded, in my despatch of the 17th of October, to the success which had attended the recommendations made to the Ameer by the Indian Government to adopt the policy which had produced the most beneficial results in the establishment of peace in countries where it had long been unknown; and Her Majesty's Government see no reason to suppose that similar results would not follow on the like recommendations. Her Majesty's Government will not fail to impress upon the Ameer in the strongest terms the advantages which are given to him in the recognition by Great Britain and Russia of the boundaries which he claims, and of the consequent obligation upon him to abstain from any aggression on his part, and Her Majesty's Government will continue to exercise their influence in the same direction. || Her Majesty's Government cannot however but feel that, if Badakshan and Wakhan, which they consider the Ameer justly to deem to be part of his territories, be assumed by England or Russia, or by one or either of them, to be wholly independent of his authority, the Ameer might be tempted to assert his claims by arms; that perhaps in that case Bokhara might seek an opportunity of acquiring districts too weak of themselves to resist the Afghan State; and that thus the peace of Central Asia would be disturbed, and occasion given for questions between Great Britain and Russia, which it is on every account so desirable to avoid, and which Her Majesty's Government feel sure would be as distasteful to the Imperial Government as to themselves. || Her Majesty's Government therefore hope, that the Imperial Government, weighing these considerations dispassionately, will concur in the recognition which they have made of Shere Ali's rights, as stated in my despatch of October, and by so doing put an end to the wild speculations, so calculated to distract the minds of Asiatic races, that there is some marked disagreement between England and Russia, on which they may build hopes of carrying out their border feuds for purposes of self-aggrandizement. || Her Majesty's Government congratulate themselves

on the prospect of a definite settlement as between the two Governments of the question of the boundaries of Afghanistan, the details of which have been so long in discussion. || Your Excellency will read and give a copy of this despatch to Prince Gortchakow. || I am, etc.

Nr. 5136. Gross-britannien. 24. Jan. 1873.

Granville.

Nr. 5137.

RUSSLAND. — Min. d. Ausw. an den kaiserl. Botschafter in London. — Russland nimmt den englischen Vorschlag vollständig an.

St. Pétersbourg, le 19/31 janvier 1873.

M. le Comte! — Lord Augustus Loftus m'a communiqué la réponse du Principal Secrétaire d'Etat de Sa Majesté Britannique à notre dépêche sur l'Asie Centrale, sous la date du 7/19 décembre. || Je joins ci-près une copie de cette pièce. || Nous voyons avec satisfaction que le Cabinet Anglais continue à poursuivre, dans ces parages, le même but que nous, celui d'y assurer la paix et autant que possible la tranquillité. || La divergence de nos vues consistait dans les frontières assignées aux domaines de Shir Ali. || Le Cabinet Anglais y fait entrer le Badakshan et le Vakhan, qui, à nos yeux, jouissaient d'une certaine indépendance. Vu la difficulté de constater, dans toutes ses nuances, la réalité dans ces parages lointains, vu le plus de facilité qu'a le Gouvernement Britannique de recueillir des données précises, et surtout vu le désir de ne point donner à cette question de détail plus d'importance qu'elle ne comporte, nous ne refusons pas d'admettre la ligne de démarcation Anglaise. || Nous sommes d'autant plus porté à cet acte de courtoisie que le Gouvernement Anglais s'engage à user de toute son influence sur Shir Ali pour le maintenir dans une attitude pacifique et insister sur l'abandon de sa part de toute agression ou conquête ultérieure. Cette influence est incontestable. Elle répose non seulement sur l'ascendant matériel et moral de l'Angleterre, mais aussi sur les subsides dont Shir Ali lui a l'obligation. Nous pouvons, dès lors, y voir une garantie réelle pour la conservation de la paix. || Votre Excellence voudra bien faire cette déclaration à M. le Principal Secrétaire d'Etat de Sa Majesté Britannique et lui remettre une copie de cette dépêche. || Lord Granville y verra, nous en sommes convaincus, une nouvelle preuve du prix que notre auguste Maître attache à entretenir et à consolider les meilleures relations avec le Gouvernement de Sa Majesté la Reine Victoria. || Recevez, etc.

Nr. 5137. Russland. 31. Jan. 1873.

Gortchakow.

Nr. 5138.

RUSSLAND und CHIWA. — Friedensvertrag vom 12/24. August 1873 nebst einleitender Note des Russischen Regierungs-Anzeigers vom 30. November/12. December 1873.

[Nach dem Journal de St. Pétersbourg.]

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On connaît les motifs qui ont amené l'expédition de Khiva. Des brigandages continuels, l'imposition de redevances sur les Kirghises soumis à notre domination, des excitations à la révolte, parmi ces nomades, la capture de nos sujets, réduits à l'esclavage, — tels sont les faits qui depuis bien des années réclamaient l'adoption de mesures décisives contre ce khanat; toutefois notre gouvernement n'avait pas perdu l'espoir d'arriver par des voies pacifiques à l'établissement de relations plus régulières avec ces turbulents voisins. || Plus d'une fois nous avons fait parvenir au Khan des réclamations modérées, mais elles sont demeurées sans réponse ou bien elles ont provoqué de sa part un refus arrogant. || Après l'insuccès de ces efforts réitérés, une expédition fut décidée. Le but en était, d'abord de châtier le khan pour le passé, ensuite de créer un état de choses qui garantît nos sujets des incursions et des déprédations des Khiviens et des Turcomans, et rendît possible le développement de relations commerciales pacifiques. || La difficulté de ce problème consistait surtout en ce que les bases fondamentales de tous les Etats de l'Asie centrale sont tellement précaires et si peu solides qu'il était à craindre qu'en frappant le Khiva d'un châtiment mérité, il ne cessât d'exister comme Etat indépendant; or, un semblable résultat n'aurait nullement répondu aux vues de notre gouvernement, qui jusqu'à présent voue ses constants efforts à soutenir et à consolider l'existence autonome des autres Etats limitrophes de nos possessions dans l'Asie centrale, tels que le Boukhara et le Kokand. || Lorsque Khiva eut été occupé et qu'on fut à même de connaître les conditions de la vie intérieure du pays, on put se convaincre que même avec la meilleure volonté de la part du Khan et de ses conseillers d'entretenir avec nous des relations de bon voisinage, la force nécessaire à cet effet lui aurait fait défaut, car son influence sur les Tourkmènes nomades ou demi-nomades ne se manifeste que par intermittence; souvent elle est nulle, et il arrive parfois que lui-même, ainsi que ses sujets colonisés, ont à subir l'ascendant de ces brigands des steppes. || Ainsi, après le départ de notre corps expéditionnaire, les mêmes incursions et déprédations auraient infailliblement recommencé et exigé un nouveau châtiment, et alors aucun effort n'aurait réussi à préserver l'existence autonome du Khiva. || Il était donc nécessaire de se prémunir contre une éventualité si peu désirable, qui nous eût exposé à de grands sacrifices et à une grave déviation du pro-

gramme de notre politique dans l'Asie centrale. ‖ C'est pourquoi il a été jugé indispensable d'établir un point fortifié pourvu d'une garnison suffisante, afin de garantir nos frontières contre les attaques des brigands, de protéger nos caravanes et celles des Khiviens, et en même temps de soutenir le khan s'il était menacé par les Tourkmènes. Le meilleur point à choisir pour l'établissement de ce fort aurait pu être la rive méridionale de la mer d'Aral, qui nous eût assuré une communication par eau avec les bouches de l'Amou-Daria. Malheureusement, cette côte, entourée de marécages ininterrompus, ne présente aucune localité favorable à l'érection d'une station fortifiée. ‖ On dut donc construire ce fort sur la rive droite de l'Amou-Daria; en outre il était nécessaire d'assurer les communications du fort et de sa garnison avec la province de Turkestan. Sans parler des difficultés de la navigation sur le bas Amou-Daria, — en hiver elle devient entièrement impossible et il ne reste d'autre voie que la steppe — il a été jugé indispensable de réunir à nos possessions le désert aride qui s'étend entre ce fort et la province de Turkestan. Certes, si l'on avait pu trouver une autre garantie quelconque qui nous rassurât efficacement pour l'avenir, on y aurait donné la préférence. Mais quelque stérile et onéreuse que soit pour nous une pareille acquisition territoriale, elle a été inévitable, vu que le khan de Khiva lui-même a reconnu et déclaré qu'il ne serait en mesure de remplir ses obligations envers nous et de rétablir les relations désirées avec notre gouvernement, qu'à la condition absolue d'avoir à proximité un fort et un corps de troupes russes. Ses voeux allaient même plus loin encore; il a instamment sollicité le maintien des troupes russes pour l'avenir dans la ville même de Khiva. ‖ En outre, comme il a été dit plus haut, cette solution était la seule qui pût garantir nos frontières et notre commerce, et éviter ainsi dans l'avenir la nécessité d'une nouvelle expédition avec toutes les conséquences qu'elle eût entraînées, c'est-à-dire la destruction définitive du khanat de Khiva, — conséquence qui eût été tout-à-fait contraire à nos principes politiques et à nos vues sur l'Asie centrale. ‖ Afin de déterminer les obligations du Khiva et ses futurs rapports avec nous, un traité a été conclu entre l'aide de camp général de Kaufmann et le khan de Khiva. Pour se former une idée claire et complète de la signification et du sens de cet acte, il est indispensable d'en diviser les stipulations, d'après leur teneur, en deux catégories distinctes. ‖ A la première doivent être rapportés tous les articles qui fixent d'une manière précise et permanente les relations et les obligations du Khiva envers la Russie, et qui ne doivent par conséquent subir aucune modification quelconque dans l'avenir. ‖ A la seconde catégorie appartiennent les clauses, motivées par les exigences du moment, qui ne doivent servir qu'à l'établissement de rapports ultérieurs invariables et permanents, et peuvent être adoucies, modifiées ou même entièrement abrogées par nos autorités locales supérieures au fur et à mesure que leur maintien en vigueur ne paraîtra plus utile ou nécessaire. ‖ Il ne sera pas superflu, ce nous semble, d'examiner

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successivement chacune des clauses de ce traité et de préciser tant leur signification que les considérations qui les ont motivées. || L'article 1er, indépendamment de sa signification morale à la suite des actes hostiles du Khiva, a pour but fondamental, conformément à nos constants efforts, de prévenir entre les souverains de l'Asie centrale les querelles et les collisions qui auraient pour résultat inévitable de les affaiblir mutuellement et de créer parmi eux le désordre et l'anarchie. || La délimitation stipulée dans les articles 2 et 3 a été suggérée par le désir d'avoir en tout temps la possibilité de réprimer les entreprises hostiles des pillards khiviens et tourkmènes, et de garantir les communications par terre et par eau de nos troupes et de nos caravanes. || La rétrocession stipulée dans l'article 4 en faveur du Boukhara, d'une partie de la rive droite de l'Amou-Daria, et de la portion méridionale de la steppe qui s'étend entre cette rivière et la province de Turkestan, est mise à exécution dans le but de placer sous la domination, et par conséquent sous le contrôle et la responsabilité de l'émir de Boukhara, les routes de caravanes conduisant des possessions boukhares à celles de la Russie. || Les restrictions à la navigation sur l'Amou-Daria contenues dans l'article 5, sont indispensables jusqu'au moment où les nomades khiviens et boukhares auront renoncé à leurs habitudes de brigandage et cesseront de profiter de la navigation sur l'Amou-Daria pour y donner cours. || Les articles 6 à 15 établissent des règles commerciales fondées sur la réciprocité et l'égalité des droits respectifs. || L'expérience du passé a démontré la nécessité de l'article 16, vu que le Khiva était un asile toujours ouvert à tous les criminels échappés de nos frontières. || L'article 17 met un terme à l'esclavage et au trafic des prisonniers à Khiva. || Enfin l'article 18 détermine la valeur, les termes et le mode de paiement de la contribution de guerre, laquelle a eu en vue moins de rembourser les dépenses faites par nous que d'infliger au Khiva un châtiment sensible. || Si nous réussissions avec le temps à dompter les Tourkmènes, à les habituer à un genre de vie paisible et à consolider la domination du khan sur ces tribus, nous aurions ainsi résolu le difficile problème de garantir la sécurité de nos sujets, de développer le commerce et en même temps d'assurer la conservation, si désirable pour nous-mêmes, de l'indépendance du Khiva.

Conditions de paix proposées par le commandant en chef de l'armée d'opérations contre le Khiva, l'aide de camp général de Kaufmann 1er, et acceptées par le khan de Khiva, Seïd-Mouhammed-Rahim-Boghadour-Khan.

1. Seïd-Mouhammed-Rahim-Boghadour-Khan se reconnaît fidèle serviteur de l'Empereur de toutes les Russies. Il renonce à toutes relations amicales directes avec les souverains et khans voisins, et à la conclusion de toutes conventions de commerce ou autres avec eux; ils s'engage à n'entreprendre

contre eux aucune opération de guerre à l'insu ou sans l'assentiment des autorités militaires supérieures russes.

2. La frontière entre les territoires russe et khivien sera l'Amou-Daria, à partir de Koutertli, en descendant le cours du fleuve, jusqu'à la sortie de la branche la plus occidentale de l'Amou-Daria, et de ce point, en suivant cette branche jusqu'à son embouchure dans la mer d'Aral; plus loin, la frontière longera le rivage de cette mer jusqu'au cap Ourgou, et de là elle suivra le pied du versant méridional de l'Oust-Ourt jusqu'à ce que l'on appelle l'Ancien-Cours du fleuve Amou.

3. Toute la rive droite de l'Amou-Daria et tous les territoires qu'il baigne, et qui jusqu'aujourd'hui ont été considérés comme territoires khiviens, passent de la possession du khan à celle de la Russie avec toutes les populations qui y résident ou qui y campent. Les parcelles de terrain situées sur la rive droite, et qui sont actuellement propriété du khan, ou dont il a octroyé la jouissance à des fonctionnaires du khanat, passent avec le reste en la possession du gouvernement russe, sans que les anciens propriétaires puissent élever aucune prétention. Il est réservé au khan de les dédommager pour leurs pertes par des terrains situés sur la rive gauche.

4. Dans le cas où, conformément à la volonté de Sa Maj. l'Empereur, la possession d'une partie de cette rive droite serait transférée à l'émir de Boukhara, le khan de Khiva reconnaîtra ce dernier comme légitime possesseur de cette partie de ses anciens domaines et renoncera à toute intention d'y rétablir son autorité.

5. Il est exclusivement reservé aux bâtiments à vapeur et autres navires russes, appartenant soit au gouvernement, soit aux particuliers, de naviguer librement sur l'Amou-Daria. Les barques khiviennes et boukhariennes ne peuvent jouir de ce droit que moyennant une permission spéciale de l'autorité supérieure russe de l'Asie centrale.

6. Les Russes ont le droit d'établir des ports dans les localités de la rive gauche où ils le jugeront nécessaire et opportun. Le gouvernement du khan répond de la sécurité et de la conservation de ces ports. — La confirmation des localités choisies pour leur établissement dépend de l'autorité supérieure russe de l'Asie centrale.

7. Indépendamment de ces ports, les Russes ont le droit d'avoir des factoreries sur la rive gauche de l'Amou-Daria pour l'entrepôt et l'emmagasinage de leurs marchandises. — Le gouvernement du khan s'engage à délivrer pour l'établissement de ces factoreries, dans les localités qui seront désignées par l'autorité supérieure russe de l'Asie centrale, des terres inoccupées en quantité suffisante pour la construction des ports, des magasins, des emplacements destinés aux employés des factoreries, et à ceux qui y auront affaire, pour l'organisation des comptoirs des marchands et de fermes agricoles. Ces factoreries, avec tous ceux qui les habitent et les marchandises qu'elles

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contiennent, sont placées sous la protection immédiate du gouvernement du khan, qui répond de leur sécurité et de leur conservation.

8. Toutes les villes et les villages du khanat de Khiva sont désormais ouverts au commerce russe. Les marchands et les caravanes russes peuvent circuler librement dans toute l'étendue du khanat et jouissent de la protection spéciale des autorités locales. Le gouvernement du khan répond de la sécurité des caravanes et des dépôts de marchandises.

9. Les marchands russes, faisant le commerce dans le khanat, sont affranchis du paiement du Ziaket et de toute espèce de redevance commerciale, de même que les marchands khiviens sont depuis longtemps exemptés du Ziaket, tant sur la route par Kazalinsk, qu'à Orenbourg et dans les ports de la mer Caspienne.

10. Les marchands russes jouissent du droit de transit gratuit pour les marchandises expédiées à travers les possessions khiviennes, dans tous les pays voisins.

11. Les marchands russes ont le droit d'avoir, s'ils le désirent, leurs agents (caravanbachis) à Khiva et dans les autres villes du khanat, pour les relations avec les autorités locales, et le contrôle de la marche régulière des affaires de commerce.

12. Les marchands russes ont le droit d'acquérir des propriétés immobilières dans le khanat. Celles-ci seront soumises à l'impôt foncier d'après un accord avec l'autorité supérieure russe de l'Asie centrale.

13. Les engagements commerciaux entre les Russes et les Khiviens doivent être strictement et inviolablement remplis de part et d'autre.

14. Le gouvernement du khan s'engage à examiner sans délai les plaintes et réclamations des sujets russes contre des Khiviens et, si elles se trouvent fondées, à y donner immédiatement satisfaction. Dans le cas de procès de la part de sujets russes et de Khiviens, les Russes auront la priorité sur les Khiviens pour le remboursement de leurs créances.

15. Les plaintes et réclamations des Khiviens contre des sujets russes, même dans le cas où ces derniers se trouvent dans les limites du khanat, sont soumises à l'examen et au jugement de l'autorité russe la plus proche.

16. Le gouvernement du khan n'admet dans aucun cas sur son territoire les divers émigrés venant de la Russie et se présentant sans être munis de permis à cet effet de la part des autorités russes, quelle que soit la nationalité à laquelle appartiennent ces émigrés. Si des criminels, sujets russes, cherchent un abri contre les poursuites légales dans les limites du khanat, le gouvernement du khan s'engage à les arrêter et à les livrer à l'autorité russe la plus proche.

17. La déclaration de Seïd-Mouhammed-Rahim-Boghadour-Khan, publiée le 12 du mois de juin dernier, concernant la libération de tous les esclaves dans le khanat et l'abolition à tout jamais de l'esclavage et du trafic des hommes, demeure en pleine vigueur et le gouvernement du khan s'engage à

veiller, par tous les moyens en son pouvoir, à la stricte et consciencieuse exécution de cette clause.

18. Une indemnité de 2,200,000 roubles est imposée au khanat de Khiva afin de couvrir les dépenses encourues par le trésor russe, pour les frais de la dernière guerre, provoquée par le gouvernement du khan et par le peuple khivien eux-mêmes. || Comme le gouvernement du khan n'est pas en état de payer cette somme à bref délai, vu l'insuffisance de l'argent tant dans le pays que dans les caisses de l'Etat, en considération de cette difficulté, la faculté lui est réservée de payer cette indemnité par termes, en comptant les intérêts à 5% par an, à condition que dans l'espace des deux premières années il soit versé au trésor russe cent mille roubles par an; dans les deux années suivantes, cent vingt-cinq mille roubles pour chaque année; en 1877 et 1878, cent cinquante mille roubles chaque année; puis, cent soixante-quinze mille roubles chacune des deux années suivantes; en 1881, c'est-à-dire dans huit ans, deux cent mille roubles, et enfin la même somme de deux cent mille roubles au moins par an jusqu'au paiement définitif. Les versements peuvent être effectués tant en billets de crédit russes qu'en monnaie ayant cours dans le khanat, selon le désir du gouvernement du khan. || Le terme du premier versement est fixé au 1er décembre 1873. En compte de ce paiement, la faculté est accordée au gouvernement du khan de prélever l'impôt sur la population de la rive droite, pour l'année courante, dans la mesure existante jusqu'à ce moment; cette perception doit être terminée au 1er décembre, à la suite d'une entente entre les percepteurs du khan et les autorités locales russes. || Les versements suivants doivent être effectués le 1er novembre de chaque année jusqu'à l'entier paiement de l'indemnité avec les intérêts. || Dans 19 ans, c'est-à-dire au 1er novembre 1892, après le paiement de 200 mille roubles pour la dite année, il restera encore au gouvernement du khan à payer 70,054 r. et le 1er novembre 1893 il aura à verser les derniers 73,557 r. || Il est réservé au gouvernement du khan la faculté de payer plus que les sommes annuelles ci-dessus désignées, s'il désire diminuer le nombre des années de paiement et les intérêts à courir pour le restant de sa dette.

Ces conditions ont été stipulées et acceptées réciproquement par le gouverneur général du Turkestan, aide de camp général de Kaufmann 1er, l'une part, et de l'autre par le souverain du Khiva, Seïd-Mouhammed-Rahim-Boghadour-Khan, et doivent être strictement exécutées et servir de règle permanente. || Fait à Gandemian (au camp de l'armée russe sous Khiva) le 12 août 1873 (le 1er jour du mois de Radjab 1290).

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RUSSLAND und BUCHARA. — Vertrag vom 28. September/10. October 1873 nebst einleitender Note des Russischen Regierungs-Anzeigers vom 18/30. December 1873.

[Nach dem "Journal de St. Pétersbourg."]

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Dans son No. 258 de l'année 1872, le *"Messager officiel"* a publié les *stipulations commerciales conclues en 1868 entre l'aide de camp général de Kaufmann, gouverneur général du Turkestan, et l'émir de Boukhara.* Ces stipulations ont servi de bases à l'établissement de rapports réguliers entre le khanat et la Russie. ‖ L'émir s'est convaincu de plus en plus avec le temps du désir que nourrissait la Russie d'avoir en lui un voisin pacifique et amical et il a compris tout ce que la Boukharie aurait à gagner à voir les relations commerciales se développer sur une grande échelle. ‖ Cette conviction sincère a permis de donner une assiette définitive aux stipulations commerciales précédemment conclues et un délégué chargé de pouvoirs du gouverneur général du Turkestan a conclu avec l'émir un *nouvel arrangement que nous reproduisons ci-après.* ‖ Indépendamment d'une définition plus détaillée et plus approfondie des relations commerciales, cet arrangement contient la délimitation des nouvelles frontières de la Boukharie et du Khiva et porte l'abolition de l'esclavage et de la traite des esclaves dans le khanat.

Arrangement conclu entre l'aide de camp général de Kaufmann 1er, gouverneur général du Turkestan, et l'émir de Boukhara, Seïd-Mouzaphar.

Article 1. La ligne frontière entre les possessions de Sa Maj. l'Empereur de toutes les Russies et celles de l'illustre émir de Boukhara est maintenue sans changements. ‖ Tout le territoire khivien situé sur la rive droite de l'Amou-Daria, ayant été réuni aux possessions russes, l'ancienne frontière séparant les possessions de l'émir de Boukhara du khanat de Khiva et se dirigeant à l'ouest du lieu nommé Khal-ata dans la direction du *togaï* Goughertly, et qui se trouve sur la rive droite de l'Amou-Daria, est supprimée. Est réuni aux possessions de l'émir de Boukhara le territoire situé entre l'ancienne frontière boukharo-khivienne, la rive droite de l'Amou-Daria à partir de Goughertly jusqu'au *togaï* Méchékly inclusivement et la ligne se dirigeant de Méchékly jusqu'au point de réunion de l'ancienne frontière boukharo-khivienne avec les limites de l'Empire de Russie.

Art. 2. Le khanat de Khiva ne possédant plus la rive droite de l'Amou-Daria, toutes les routes suivies par les caravanes allant de la Boukharie dans la direction du Nord vers les possessions russes, traversent désormais exclusive-

ment des terres boukhares et russes. Les deux gouvernements russe et boukhare veilleront, chacun dans ses possessions respectives, à la sécurité du mouvement commercial et des caravanes sur ces routes.

Art. 3. Les vapeurs russes et les autres navires russes du gouvernement, ainsi que les bâtiments qui appartiennent à des particuliers ont, à l'égal des navires boukhares, le droit de libre navigation sur la partie de l'Amou-Daria appartenant à l'émir de Boukhara.

Art. 4. Les Russes ont le droit d'établir des débarcadères et des entrepôts de marchandises partout où ils le jugeront nécessaire et commode sur les rives boukhares de l'Amou-Daria. Le gouvernement boukhare se charge de veiller à la sécurité et à la conservation de ces débarcadères et entrepôts. La ratification du choix des endroits où l'on se propose d'établir des débarcadères dépend de l'autorité supérieure russe dans l'Asie centrale.

Art. 5. Toutes les villes et tous les villages du khanat sont ouverts au commerce russe. Les marchands et les caravanes russes peuvent circuler librement par tout le khanat et jouissent d'une protection spéciale de la part des autorités locales. Le gouvernement boukhare répond de la sécurité des caravanes russes dans les limites du khanat de Boukhara.

Art. 6. Toutes les marchandises appartenant aux marchands russes transportées soit des possessions russes en Boukharie, soit de ce pays en Russie, sont soumises sans aucune exception à une taxe de deux et demi pour cent de leur valeur, tout comme on prélève dans le Turkestan un droit de quarantième des marchandises. Aucune taxe supplémentaire autre que celle-ci ne peut être prélevée en sus de ce *ziaket*.

Art. 7. Les marchands russes ont le droit de transporter à travers la Boukharie sans payer de taxe les marchandises en destination des pays voisins de ce khanat.

Art. 8. Les marchands russes sont autorisés à établir des caravansérails pour servir d'entrepôts à leurs marchandises dans toutes les villes boukhares où ils le jugeront nécessaire. Les marchands boukhares jouissent du même droit dans toutes les villes du Turkestan.

Art. 9. Les marchands russes sont autorisés à avoir dans toutes les villes de la Boukharie des agents commerciaux ayant pour mission de surveiller la marche régulière du commerce et la perception légale des droits de douane, et chargés d'entretenir avec les autorités locales les rapports que nécessite le trafic. Les marchands boukhares jouissent du même droit dans les villes du Turkestan.

Art. 10. Les engagements commerciaux conclus entre Russes et Boukhares doivent être remplis religieusement et consciencieusement de part et d'autre. Le gouvernement boukhare promet de veiller à la stricte exécution de tous les engagements commerciaux et en général à la régularité des affaires commerciales.

Art. 11. Les sujets russes ont à l'égal des sujets boukhares le droit de

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s'occuper dans les limites de la Boukharie de toute espèce d'industrie et de métiers autorisés par le *charigat*, tout comme les sujets boukhares peuvent se consacrer dans les limites de l'Empire de Russie à toute espèce d'industrie et de métiers permis par les lois russes.

Art. 12. Les sujets russes ont le droit de posséder des immeubles dans le khanat, c'est-à-dire d'acquérir des maisons, des jardins et des terres arables. Ces immeubles paient le même impôt foncier que les propriétés des sujets boukhares. Ces derniers jouissent du même droit en Russie.

Art. 13. Les sujets russes entrent dans les possessions boukhares avec les permis délivrés par les autorités russes pour franchir librement la frontière; ils ont le droit de circuler par tout le khanat et jouissent d'une protection spéciale de la part des autorités boukhares.

Art. 14. Le gouvernement boukhare n'admet dans aucun cas sur son territoire des émigrés russes, à quelque nationalité qu'ils appartiennent, non munis de permis délivrés par les autorités russes. Si un criminel, sujet russe, se réfugie sur le territoire boukhare afin d'éviter le châtiment qui l'attend de par la loi, les autorités boukhares sont tenues de l'arrêter et de le remettre entre les mains des autorités russes les plus proches.

Art. 15. Pour être en relations immédiates et non-interrompues avec l'autorité supérieure russe dans l'Asie centrale, l'émir de Boukhara choisit dans son entourage une personne de confiance qu'il établit à Taschkent en qualité d'envoyé et de fondé de pouvoirs. Cet envoyé réside, à Taschkent, dans une maison appartenant à l'émir et aux frais de celui-ci.

Art. 16. Le gouvernement russe peut de même avoir un représentant permanent à Boukhara auprès de la personne de l'illustre émir. Le représentant de la Russie à Boukhara, tout comme c'est le cas pour l'envoyé de l'émir à Taschkent, réside dans une maison appartenant au gouvernement russe et aux frais de celui-ci.

Art. 17. Par déférence pour l'Empereur de Russie et pour la plus grande gloire de Sa Majesté Impériale l'illustre émir de Seïd-Mouzaphar a résolu: que dorénavant le honteux commerce des hommes, si contraire aux lois de l'humanité, est aboli à tout jamais dans les limites de la Boukharie. Conformément à cette résolution Seïd-Mouzaphar transmettra immédiatement à tous ses beks des instructions très formelles dans ce sens; en outre il enverra dans les villes limitrophes du khanat où l'on amène les esclaves pour les vendre aux sujets boukhares, en sus des instructions précitées, des ordres spéciaux portant que dans le cas où, malgré les ordres de l'émir, des esclaves y seraient encore amenés, ils seront immédiatement enlevés à leurs propriétaires et mis en liberté.

Art. 18. L'illustre Seïd-Mouzaphar, désirant de toute son âme que les relations de bon voisinage qui existent depuis cinq ans déjà pour le bien de la Boukharie se développent et se consolident, se dirigera d'après les 17 articles ci-dessus, qui constituent l'arrangement amical entre la Russie et la

Boukharie. Cet arrangement est fait en double et chaque exemplaire est rédigé dans les deux langues russe et tourkmène. Comme preuve de ce que cet arrangement a été conclu par l'émir et qu'il lui servira de guide, ainsi qu'à ses successeurs, Seïd-Mouzaphar y a apposé son sceau. || Fait à Schaar le 28 septembre 1873, le 19e jour du mois de Chabane de l'année 1209.

Nr. 5139. Russland und Buchara. 10. Oct. 1873.

Nr. 5140.

GROSSBRITANNIEN. — Min. d. Ausw. an den königl. Botschafter in St. Petersburg. — Kenntnissnahme des Friedensvertrages mit Chiwa. Neue Besorgnisse wegen der Turkomanen-Stämme.

Foreign Office, January 7, 1874.

Nr. 5140. Gross-britannien. 7. Jan. 1874.

My Lord! — Her Majesty's Government have received from Mr. Doria, in his despatch of the 20th ultimo, a translation of the Treaty of Peace concluded between General Kaufmann and the Khan of Khiva, as published in the "Messager Officiel" of November 30/December 12. || By Article I the Khan of Khiva acknowledges himself to be the humble servant of the Emperor of Russia, and renounces the right of maintaining diplomatic relations, or of entering into Commercial or other Treaties with the neighbouring Rulers and Khans; and he further engages not to undertake military operations against them without the knowledge and permission of the Russian authorities in Central Asia. By subsequent provisions the whole of the territory belonging to Khiva on the right bank of the Oxus, together with the delta of that river from the point where the most westerly branch leaves the main stream, are ceded to Russia, who is also to have the exclusive control of the navigation of the Oxus, and the right of establishing, on the left bank of the river, factories, wharves, and the necessary buildings for the formation of commercial depôts in such localities as may be selected by the Russian authorities for the purpose. An indemnity of 2,200,000 roubles is, moreover, exacted from the Khan, the payment of which is extended over nineteen years, *i. e.*, till November 1892. || It also appears, that a fort is in course of construction on the right bank of the Oxus, near Shourakhan, and about thirty miles distant from the town of Khiva, due east, to receive a Russian garrison. || Her Majesty's Government see no practical advantage in examining too minutely how far these arrangements are in strict accordance with the assurances given to me in January last by Count Schouvalow as to the intentions with which the expedition against Khiva was undertaken. They are not disposed to share in the exaggerated apprehensions which have at times been expressed in this country as to the danger to British rule in India which may

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arise from the extension of Russian influence in Central Asia. || At the same time each step of that progress renders it more desirable that a clear and frank understanding should continue to exist between the two countries as to the relative position of British and Russian interests in Asia, and it is with that object that Her Majesty's Government think it right on the present occasion to review the communications which have passed on the subject, and the position of affairs as they stand in respect of the future. In so doing they are fulfilling the wish expressed by Prince Gortchakow, in conversation with Sir A. Buchanan, on the 2nd of November, 1869, when he begged that Lord Clarendon might be told that, "as both Governments are free from all *arrière-pensées*, ambitious views, or unfriendly feelings towards each other, the more fully and frankly all questions connected with Central Asia are discussed between them, the more effectually will the 'mists' be blown away which, through the misrepresentations of over-zealous subordinate agents, may at any time hang over them." || In the spring of 1869 Lord Clarendon, in several conversations with Baron Brunnow, drew attention to the rapid progress of the Russian troops in Central Asia, and made a proposal for the "recognition of some territory as neutral between the possessions of England and Russia, which should be the limit of those possessions, and which should be scrupulously respected by both Powers." || Prince Gortchakow, to whom Baron Brunnow had communicated Lord Clarendon's suggestions, replied that "the idea of maintaining between the possessions of the two Empires in Asia a zone to preserve them from any contact" had always been shared by the Emperor, and he authorized Baron Brunnow to "repeat to Her Britannic Majesty's Principal Secretary of State the positive assurance, that His Imperial Majesty looks upon Afghanistan as completely outside the sphere within which Russia may be called upon to exercise her influence. No intervention or interference whatever, opposed to the independence of that State, enters into his intentions." || Lord Clarendon answered, after expressing the thanks of Her Majesty's Government for the friendly feelings which had prompted Prince Gortchakow's communication, that the Secretary of State for India, having consulted those members of his Council who were well acquainted with the countries in question, had arrived at a decided opinion, that Afghanistan would not fulfil those conditions of a neutral territory that it was the object of the two Governments to establish, and that it was therefore thought advisable to propose that the Upper-Oxus should be the boundary line which neither Power should permit its forces to cross. || To this proposal, however, Prince Gortchakow objected, in a conversation which took place between him and Lord Clarendon at Heidelberg in the autumn of 1869, on the ground that a portion of country south of the Oxus was claimed by the Ameer of Bokhara, and that this might lead to differences between the Russian and English Governments. Further communications followed during the visit of Mr. Forsyth to St. Petersburgh, and these resulted in an understanding, the

summary of which is thus stated by Prince Gortchakow in his despatch to Count Brunnow of the 1st November, 1871: — || 1. That the territory in the actual possession at the present moment of Shere Ali Khan should be considered to constitute the limits of Afghanistan. | 2. That beyond these limits the Ameer should make no attempt to exercise any influence or interference, and that the English Government should do all in their power to restrain him from any attempts at aggression. | 3. That, for their part, the Imperial Government should use all their influence to prevent any attack by the Ameer of Bokhara upon Afghan territory. || Prince Gortchakow further stated, in a conversation which he had with Sir A. Buchanan on the 1st November, 1869, that he felt assured that the advice of Russia to the Khan of Khokand to live in peace with his neighbours would be followed; and, with regard to Kashgaria, or Yarkand, he authorized the Indian Government to assure the Atalik Ghazee, who had recently established a Government in that country, "that Russia had no hostile intentions towards him, or any desire to make conquests in his territories." || Some delay not unnaturally occurred in the settlement of the boundary of Afghanistan, for it required an investigation into the condition of countries little known either to the British or to the Russian authorities. Ultimately, there was a difference of opinion between the two Governments upon the question, whether Badakshan and Wakhan did or did not form part of the provinces held by the Ameer. Her Majesty's Government gladly take this opportunity of again acknowledging the friendly and conciliatory spirit shown by the Imperial Government in the acceptance by them of the views advanced on the part of Great Britain, as to the frontier line of Afghanistan at these and other points. || Those views were stated, as you are aware, in my despatch to your Excellency of October 17, 1872, and the assent of the Imperial Government to the definition of the Afghan frontier as therein laid down, will be found in Prince Gortchakow's despatches to Baron Brunnow, of December 7, 1872, and January 19, 1873. || Such was the agreement arrived at between the two countries. On their part, Her Majesty's Government may fairly claim, that it has been faithfully executed to the full extent of their power. The influence of the Government of India has been successfully exercised to dissuade the Ameer of Afghanistan from interference in the affairs of Bokhara, and from any attempt at encroachment on the territories beyond his frontier; and their action in this respect has been acknowledged by the Russian Government. Advice of a similarly pacific character has been given by the Indian Government to the Ruler of Yarkand, and they have declined to exercise any interference in the affairs of Bokhara and Khiva, when appealed to, more than once, by Envoys from those countries. | Her Majesty's Government bear willing testimony to the fact that the action of the Russian Government on various occasions has been in accordance with the same policy, as, for instance, in the efforts made by them to discourage any aggression by the Khan of Bokhara on the territories of

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Afghanistan, and in the refusal of General Kaufmann to give any countenance to the designs of Abdul-Rahman-Khan, nephew of the Ameer of Afghanistan, upon the tranquillity of that country. The Indian Government have repeated, and will continue to repeat, as opportunity may offer, advice in the same sense as that which they have hitherto given to the Ameer of Afghanistan, but it is not unnatural that that Ruler should feel and express some uneasiness at the rapid advance of Russian power towards his frontier. His apprehensions have been more especially roused by the reported intention to send a Russian expedition to capture Merv and reduce the Turcoman tribes of those parts, and he has applied to the Government of India for advice on the subject. Rumours of such an expedition, to be undertaken in the ensuing spring, have reached Her Majesty's Government from various quarters. The plan has been recommended, as you are aware, by some of the most influential organs of the Russian press. The Turcoman tribes themselves state that they have received formal warning of such an intention from the Russian authorities, and are reported to have invoked the protection of Persia. It may indeed be true, that such an expedition is as yet discountenanced and disavowed by the Government at St. Petersburgh, but past experience shows that it would be unwise to look upon the project as being, therefore, entirely out of the question. Circumstances may occur, as they have more than once occurred before, to force the Russian Government into a course to which they are on principle opposed. The difficulties of a Power like Russia, in dealing with wild tribes on its frontier, such as those in the deserts bordering on Khiva, are well described in Prince Gortchakow's Circular of the 21st of November, 1864. As soon as one territory is subdued, and the populations immediately bordering on it are reduced, more or less, to subjection, fresh aggressions are committed by more distant tribes. Fresh expeditions against these become necessary; and to give to these expeditions any lasting effect, fresh annexations and occupations are required. At the time of that Circular, and in order to obviate the inconveniences thus set forth, the determination was announced to adopt for the Russian possessions in Central Asia a final line of frontier, stretching from Lake Isyk-Kul to the Syr-Daria, and embracing the town of Tchemkend, which was to be fortified for the purpose. But in practice it was found impossible to adhere to this line. Expeditions against Bokhara had soon afterwards to be undertaken. Taschkend, Khojend, Jeezakh, and Samarkand were successively occupied. Speaking to Lord Clarendon in September 1869, Prince Gortchakow stated that "the Emperor considered, and he entirely shared His Majesty's opinion, that extension of territory was extension of weakness, and that Russia had no intention of going further south." As a proof of this determination, he added, that it was the intention of the Emperor not to retain Samarkand. Difficulties, however, interfered with the restoration of Samarkand to the Ameer of Bokhara; first, in regard to the payment of the indemnity due by

that country to Russia, and later as to the protection of Russian interests which had grown up among the population, and as to the guarantees to be obtained against misconduct on the part of its future rulers; and although Sir A. Buchanan reported in July 1870, that Prince Orloff had been authorized by the Emperor to confirm the assurances given by Prince Gortchakow in the preceding year, still eventually, as was confessed by Prince Gortchakow himself in February last, the Imperial Government found, after an occupation of four years' duration, and in view of the advantages which it had conferred on the population of the city, that they could not with credit to themselves, nor in justice to the inhabitants, restore Samarkand to the Government of Bokhara, and on these grounds Russia has retained possession of it. It is unnecessary to retrace the series of circumstances which, in spite of the reluctance of the Russian Government, led to the recent expedition against Khiva. In the face of these events it would be unwise not to contemplate the possibility, that considerations of self-defence, or the necessity of punishing acts of plunder and hostility, may eventually give occasion for a Russian expedition against the Turkoman tribes. Those tribes have now applied to the Ameer of Cabul for advice as to the attitude which they should assume towards the Russians, and he, in his turn has consulted the Government of India as to the reply which he should make. He has at the same time expressed his apprehensions, that the result of a Russian expedition against Merv will be to drive the Turkomans to take refuge in the province of Badghees in Herat. This, the Ameer fears, will lay him open to a demand from the Russian authorities, that he shall either prevent the Turkomans from committing aggressions, or permit the Russian forces to enter the territories of Afghanistan for the purpose of punishing the hostile tribes. An incident of this kind occurred, as you are aware, not long ago on the Persian frontier, and led to a correspondence between the Russian and Persian Governments. The advice given by the Government of India has been in conformity with the policy hitherto pursued. The Ameer has been warned, that he should avoid taking any course which would make him responsible for lawless or hostile proceedings on the part of the Turcoman tribes. The Viceroy of India has at the same time endeavoured to reassure him as to the safety of his territories from any aggression or attack on the part of Russia. In face of the agreement which exists between the two countries, it is unnecessary for Her Majesty's Government to make any profession of their conviction that Afghanistan is perfectly secure from any hostile designs on the part of Russia. They think it best, however, to bring the fears entertained by the Ameer to the knowledge of the Russian Government, and to express their earnest hope that the question of any further expedition against the Turkoman tribes may be carefully considered, in conjunction with the results which the Ameer of Cabul apprehends may ensue from it. They think it right to state candidly and at once that the independence of Afgha-

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nistan is regarded by them as a matter of great importance to the welfare and security of British India and to the tranquillity of Asia. Should the Turkoman tribes be driven into the neighbourhood of Herat, now or hereafter, in consequence of any military operations effected by Russian power, the Ameer might labour under a double hardship: first, in the disturbance of his dominions; secondly, if he were held responsible for controlling tribes of that wild race and restraining them from incursions upon the country from which Russia had expelled them. On the one hand, it does not appear how he could justly be held responsible in such circumstances, and, if he were so held, he would have a strong claim to consideration on the part of all such as rightly appreciate his position; on the other hand, questions might thus be raised, which it was the object of the engagement entered into between Great Britain and Russia to obviate, and which it cannot be the interest of either country to revive. || You will read this despatch to Prince Gortchakow, and give him a copy of it. || I am, etc.

Granville.

Nr. 5141.

RUSSLAND. — Min. d. Ausw. an den kaiserl. Botschafter in London. — Beschwichtigung der englischen Besorgnisse.

St. Pétersbourg, le 21 janvier, 1874.

Nr. 5141. Russland. 2. Febr. 1874.

J'ai l'honneur de transmettre ci-près à votre Excellence copie d'une dépêche de Lord Granville dont Lord A. Loftus a été chargé de nous donner communication. || J'ai exprimé à M. l'Ambassadeur d'Angleterre toute la satisfaction que nous éprouvons à voir le jugement équitable porté par le Gouvernement de Sa Majesté Britannique sur les questions que nous sommes appelés à traiter en commun en Asie. || A mon avis l'entente est complète. Elle repose non seulement sur la loyauté des deux Gouvernements, mais sur des avantages politiques réciproques d'une évidence palpable. Tant qu'ils seront animés d'un esprit de mutuelle bienveillance et de conciliation, aucune mésintelligence politique n'est à prévoir entre eux. || Pour notre part, nous restons invariablement fidèles au programme tracé d'un commun accord tel qu'il est sorti de mes entretiens avec Lord Clarendon et qu'il s'est développé et précisé dans les pourparlers entre les deux Cabinets. || J'ai réitéré à Lord A. Loftus l'assurance positive que le Cabinet Impérial persiste à considérer l'Afghanistan comme entièrement en dehors de sa sphère d'action. || Si de part et d'autre les deux Gouvernements emploient leur ascendant sur les Etats placés dans le rayon de leur influence naturelle afin de les détourner de toute aggression, il y a lieu d'espérer qu'aucune collision violente ne viendra troubler le repos

de l'Asie Centrale et interrompre l'oeuvre civilisatrice qu'il est du devoir et de l'intérêt des deux grands Empires de mener à bonne fin. || Pour ce qui nous concerne c'est dans ce sens que nous agissons à l'égard des Khanats qui nous avoisinent. Nous comptons avec pleine confiance que le Gouvernement des Indes en agira de même vis-à-vis de l'Emir de Caboul, et nous ne doutons pas qu'il n'ait les moyens de s'en faire écouter. || Quant au danger éventuel que Lord Granville nous signale et sur lequel Shir Ali paraît avoir déjà appelé l'attention du Gouvernement des Indes, c'est à dire que les tribus nomades des Turcomans chassées par nos troupes ne reviennent chercher assistance ou refuge sur le territoire de Hérat et n'amènent un conflit entre nous et l'Afghanistan, j'ai dit à Lord A. Loftus que nous n'avions aucune intention d'entreprendre une expédition contre les Turcomans; il dépendait entièrement d'eux de vivre en bonne intelligence avec nous et de tirer même profit de notre voisinage et des voies que nous nous efforçons d'ouvrir au commerce pacifique; mais si ces tribus turbulentes se livraient à des aggressions et à des brigandages contre nous, force nous serait de les châtier. C'est là une de ces nécessités que le Gouvernement de Sa Majesté Britannique connaît par sa propre expérience, et à laquelle aucun Gouvernement en contact avec des populations sauvages ne saurait se soustraire. Nous sommes en tout cas les premiers à désirer que ce châtiment, s'il y a lieu, puisse être infligé le plus près possible de nos frontières. || Lord A. Loftus a recueilli les mêmes assurances de la bouche de notre auguste Maître et a dû en rendre compte à son Gouvernement. || J'ai ajouté que bien que l'éventualité signalée par Shir Ali soit peu probable, l'Emir de Caboul peut contribuer à en éloigner la possibilité en faisant nettement comprendre d'avance aux Turcomans que s'ils provoquent des mesures de rigueur par des actes de déprédation contre nous, ils ne doivent compter de sa part sur aucune assistance ni aucune protection. || Le Gouvernement des Indes est certainement en mesure de lui faire parvenir ce conseil sous une forme qui en assure l'efficacité. || Veuillez porter ces réflexions à la connaissance de Lord Granville et réitérer à son Excellence la conviction où nous sommes que les deux Gouvernements ont un égal intérêt à ne point permettre, que leurs bonnes relations soient troublées par les intrigues des Khans Asiates, et que si longtemps que tous deux marcheront d'accord dans un sentiment de mutuelle confiance et de bon vouloir réciproque, la tranquillité de l'Asie Centrale sera suffisamment garantie contre toutes les éventualités. || Recevez, etc.

Gortchakow.

Nr. 5142.

OESTERREICH-UNGARN. — Aus der Sitzung des Finanzausschusses der Reichrathsdelegation vom 9. Mai 1874[1]).

Pest, 9. Mai.

Nr. 5142. Oesterreich-Ungarn. 9. Mai 1874.

In der heute stattgefundenen Sitzung des Finanzausschusses der Reichsrathsdelegation interpellirte der Berichterstatter Dr. Schaup anlässlich der Berathung des Budgets des Ministeriums des Aeussern den Minister des Aeussern darüber, welche Stellung derselbe gegenüber den provocatorischen Aeusserungen seitens des Vaticans anlässlich der in Oesterreich erlassenen confessionellen Gesetze eingenommen.

Graf Andrássy erwiederte hierauf: Es sei in Angelegenheiten der Encyklica von Seite des Ministeriums des Aeussern eine einzige Note erlassen worden. Er bedauere, dieselbe dem vollen Texte nach nicht mittheilen zu können. Er bedauere dies speciell deshalb, weil er zwar, worauf er stets zurückkommen müsse, nicht glaube, dass irgend ein Rothbuch von der Thätigkeit des Ministeriums des Aeussern auch nur ein annäherndes, geschweige denn ein vollkommen erschöpfendes Bild geben könne, es aber dafür um so nothwendiger erachte, dass der Delegation das volle Recht gewahrt werde, in allen Fragen der auswärtigen Politik die möglichst eingehenden Aufklärungen zu erhalten, ja, soweit es nur immer angehe, die betreffenden Dokumente selbst einsehen zu können. ‖ In diesem Falle jedoch könne dies aus dem speciellen Grunde nicht geschehen, weil die Note bloss die Ergänzung eines Privatschreibens bilde, welches Se. Majestät an den Papst gerichtet hat. Die Note hatte die Bestimmung, die Darlegung der persönlichen Motive, welche Se. Majestät in Seinen Entschliessungen geleitet, zu vervollständigen. Der volle Text des Schriftstückes entziehe sich daher der Mittheilung, nicht etwa des Inhaltes wegen, welcher das volle Tageslicht in keiner Beziehung zu scheuen habe, sondern ausschliesslich wegen der Form. Der Minister skizzirt hierauf den Inhalt der Note ungefähr in folgender Weise: ‖ Die Note hat vor Allem die Ansicht ausgesprochen, dass diejenigen, welche die Encyklica inspirirt haben, vielleicht weniger von dem Bestreben geleitet waren, einer Collision zwischen Kirche und Staat vorzubeugen, als vielmehr von dem Wunsche, eine solche zu provociren. Die Note hat durchaus nicht, wie von mancher Seite behauptet worden, das Recht des Papstes, in kirchlichen

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[1]) Das österreichische Rothbuch Nr. 8 vom April 1874 enthält keine allgemeine Uebersicht und keine Actenstücke von allgemein politischem Interesse. Die hier mitgetheilten Erklärungen des gemeinsamen Ministers des Auswärtigen, Grafen Andrássy, im Finanzausschusse der Reichsrathsdelegation vertreten einigermaassen deren Stelle A. d. Red.

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Dingen den Bischöfen seine Meinung mitzutheilen, in Frage gezogen; aber sie hat entschieden bedauert, dass die Encyklica über diese Grenze hinaus ein verdammendes Urtheil in Dingen gefällt hat, die durchaus nicht dogmatischer Natur, sondern in dem souveränen Gesetzgebungsrechte des Staates begründet sind. || Weiter erklärt die Regierung in der Note, dass sie auch in dieser zu ihrem Bedauern erschwerten Lage trachten werde, nichts zu thun, was eine Collision zwischen Kirche und Staat provociren würde, dass dies aber nur dann möglich sei, wenn gerade im Gegensatz zu dem entschieden und absolut verdammenden Urtheile der Encyklica den Bischöfen der Rath ertheilt werde, den Gesetzen des Staates Folge zu leisten. || Zum Schlusse erklärt die Note, dass in dem Falle, als gegen alle Voraussetzung der innere Friede dadurch gefährdet werden sollte, dass den sanctionirten Gesetzen von Seite des Klerus nicht Folge geleistet würde, sich die Regierung eben so wohl berechtigt wie verpflichtet erachte, die Rechte des Staates zu wahren, und dass dieselbe auch die Ueberzeugung habe, dass es ihr gelingen werde, den Gesetzen volle Geltung zu verschaffen.

Auf die weitere Anfrage des Berichterstatters, ob Se. Excellenz über einen Erfolg dieses Schrittes Mittheilungen zu machen in der Lage wäre, erwiedert der Minister, die Note sei nicht darauf berechnet gewesen, eine Gegenantwort zu provociren, und es sei auch eine solche nicht erfolgt; er habe keinen Anhaltspunkt, von einem thatsächlichen Erfolge des Schrittes zu berichten; aber auch über das Gegentheil könne er nicht klagen, denn es scheine vielmehr eine gewisse Beruhigung eingetreten zu sein.

Eine weitere Frage des Berichterstatters, welcher an die jüngsten Erörterungen im englischen Parlamente und an die Mittheilungen der „Times" bezüglich der Anwesenheit Victor Emanuel's in Berlin anknüpfte, gab dem Minister Gelegenheit zu einigen Andeutungen über die momentane europäische Lage, welche er als den Frieden in keiner Weise bedrohend erachtet.

Auf eine Aufforderung des Delegirten Dr. Gross, dass der Minister im Allgemeinen unsere Beziehungen zu den auswärtigen Mächten und die europäische Lage charakterisire, erklärte Graf Andrássy, er müsse, wenn die Frage sich dahin zuspitze, ob er in nächster Nähe eine Kriegsgefahr sehe, absolut mit „nein" antworten; auf wie lange aber der Friede gesichert sei, darüber könne er keine Aufklärung geben, und er glaube, es lebe in ganz Europa Niemand, der dies könnte; so viel aber müsse er wohl aussprechen: „Er kenne keine Regierung, die heute den Frieden zu stören gedächte." Unleugbar jedoch bestehen grosse Antagonismen zwischen einzelnen Völkern, Gefühlen und Interessen, welche es nicht gestatten, den Frieden auf lange Zeit als vollkommen sicher zu betrachten. Was unsere Monarchie betrifft, so müsse er zweierlei betonen: das Eine ist, dass unsere Stellung zu den übrigen Mächten, wenn auch nicht sie allein den Frieden erhält, doch sowohl in den Beziehungen zu den Nachbarreichen wie den anderen Staaten gegen-

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über wesentlich zur Erhaltung des Friedens beigetragen habe und beitragen werde. Das Andere ist, dass die Mittel, diese Action auch für die Zukunft wirksam zu machen, immer nur darin bestehen, die Kraft der Monarchie derart zu erhalten, dass sie stark genug sei, so lange es möglich den Frieden, unter allen Umständen aber ihre eigenen Interessen zu wahren.

Eine Aeusserung des Delegirten Scrinzi, er glaube den Aeusserungen des Ministers entnehmen zu können, dass die vielfachen persönlichen Begegnungen der Monarchen eine grosse und ziemlich beruhigende Garantie des Friedens boten, veranlasste den Minister, zu bemerken, dies sei der ausschliessliche Zweck des persönlichen Meinungsaustausches zwischen den Monarchen und ihren Ministern gewesen; er habe es für um so unnöthiger erachtet, den mannigfachen Zeitungsversionen zu begegnen, welche anlässlich der letzten Entrevue über politische Abmachungen, Theilung des Orients oder eine neue Richtung in der auswärtigen Politik laut geworden, weil dieselben Nachrichten schon bei der Drei-Kaiser-Zusammenkunft in Berlin aufgetaucht und wieder spurlos verschwunden sind und es deshalb ohnehin klar erscheint, dass, wenn so weittragende Pläne oder gegen irgend jemanden gerichtete Allianzen nicht geplant wurden, als alle drei Mächte vertreten waren, dies noch weniger durch zwei derselben geschehen könne.

Delegirter Scrinzi weist auf die betrübende Wahrnehmung hin, dass der Seehandel und die damit zusammenhängende Schifffahrt in den letzten Jahren Rückschritte mache; insbesondere sei Triest in dieser Beziehung zurückgegangen. Redner fragt, ob der Minister die Ursachen der geringen Betheiligung des österreichischen Handels an dem maritimen Verkehre zum Gegenstande seines besonderen Studiums machen wolle. Graf Andrássy erwiedert, es liege innerhalb des Kreises der Verpflichtung des Ministers des Aeussern, die Beziehungen mit den übrigen Mächten im Interesse des Handels zu erweitern und zu regeln, und dies sei seinerseits durch die Anbahnung von Handels- und Schifffahrtsverträgen stets geschehen. Insbesondere habe ihn auch anlässlich der Reise Sr. Majestät nach Russland die Ueberzeugung geleitet, dass möglichst innige Handelsbeziehungen die beste Garantie des Friedens gewähren. Desgleichen sei das auswärtige Amt in der letzten Phase der Suezkanal-Frage neuerdings auch mit Erfolg bemüht gewesen, speciell die Interessen des österreichisch-ungarischen Seehandels zu wahren. Was jedoch die Fluctuationen des Handelsverkehrs und auch ihre Ursachen anbelangt, so gehören derlei Angelegenheiten in das Ressort der Handelsministerien. Das Ministerium des Aeussern werde man stets bereit finden, mitzuwirken; auch seien Verbindungen nachdrücklich geltend zu machen, wo es die Pflege der Handelsinteressen gilt. Allein eine Initiative in dem angedeuteten Sinne zu ergreifen, läge ausserhalb seiner berufsmässigen Berechtigung.

Delegirter Dumba regt die Frage der Erbfähigkeit österreichisch-ungarischer Staatsangehöriger im Gebiete des osmanischen Reiches an und giebt

eine eingehende Schilderung der diesfalls bestehenden Verhältnisse, welche den österreichischen Staatsangehörigen zwar einige Begünstigungen, aber keineswegs die volle Reciprocität sichert.

Nr. 5142. Oesterreich-Ungarn. 9. Mai 1874.

Er beantragt eine Resolution des Inhalts: der Minister des Aeussern sei aufzufordern, im Einvernehmen mit den beiden Regierungen dahin zu wirken, dass die gegen die Successionsfähigkeit österreichisch-ungarischer Unterthanen im Oriente bestehenden Schwierigkeiten beseitigt werden.

Graf Andrássy bezeichnet diesen Gegenstand als in sein Ressort gehörig und giebt seiner vollen Bereitwilligkeit Ausdruck, in diesem Sinne im Einvernehmen mit den beiden Ministerien seine Thätigkeit einzusetzen.

Sectionschef Freih. v. Hofmann giebt noch eine sachliche Darstellung des bezüglichen Verhältnisses, welche die Angaben Dumba's bestätigt, und bemerkt, die Regierung habe Ursache, diese Resolution zu begrüssen. Die Resolution wird in Folge dessen zur Annahme empfohlen werden.

Delegirter Dumba hebt hervor, wie wünschenswerth im Interesse des österreichischen Handelsabsatzes die Pflege guter Beziehungen zu Rumänien sei, und fragt, ob es wahr sei, dass die Stellung, welche die österreichisch-ungarische Regierung dem diplomatischen Agenten für Rumänien einräume, eine minder günstige sei als in anderen Ländern, und ob dieser Umstand nicht den Beziehungen zu Rumänien abträglich werde. Graf Andrássy kann dem Interpellanten die nachdrückliche Versicherung geben, dass der Agent Rumäniens in Wien genau dieselbe Stellung einnehme wie allenthalben, wo eine besondere Vertretung der Donau-Fürstenthümer bestehe, und fügt hinzu, dass das Ministerium des Aeussern keine Gelegenheit verabsäume, um die Handelsbeziehungen zu diesem Ländergebiete erspriesslich zu regeln.

Nach Beantwortung einer Frage des Delegirten Grafen Coronini, betreffend die noch schwebende Grenzregulirung gegen Italien längs des Aussaflusses, regt Fürst Czartoryski die Frage an, ob die Publication des Rothbuches nicht zu unterlassen sei. Dass die Institution sich überlebt habe, sei durch den Umstand erwiesen, dass noch keines dieser Hefte zu eingehenden Discussionen Anlass gegeben habe. Dr. Giskra spricht sich gegen diese Abschaffung aus; die Rothbücher haben im Gegentheil zur Beurtheilung der Ziele und Mittel unserer Politik dankenswerthe Aufschlüsse gegeben, und es sei rathsam, weder die Delegation in ihrem Rechte, mittels der Rothbücher Aufklärungen zu verlangen, noch den Minister in der Möglichkeit, durch dieselben Aufschlüsse zu geben, zu beschränken.

Graf Andrássy wiederholt seine oft ausgesprochene Ansicht von dem Werthe der Rothbücher und glaubt, dass die Thätigkeit des Ministeriums nur nach dem Erfolge richtig zu beurtheilen sei; dennoch könne er eine gänzliche Abschaffung der Institution nicht provociren, da sich oft die Möglichkeit bieten kann, dass derlei Publicationen beiderseits wünschenswerth erschienen. Er betrachte das Rothbuch als eine Mitgarantie des constitutio-

Nr. 5142. Oesterreich-Ungarn. 9. Mai 1873.

nellen Lebens. Fürst Czartoryski erklärt, in Folge dieser Aeusserungen keinen Antrag stellen zu wollen.

Zu dem Titel „diplomatische Auslagen“ stellt Dr. Giskra die Frage, ob die Creirung der persischen Gesandtschaft bereits Erfolge aufzuweisen habe. Nach eingehenden Aufschlüssen über die hohe Wichtigkeit der Vertretung Oesterreich-Ungarns als einer Grossmacht im Allgemeinen auch bei jenen Staaten, wo directe Interessen im Momente nicht im Vordergrunde stehen, wo aber europäische Interessen von allgemeiner Wichtigkeit in ihrer Austragung die Mitwahrung der eigenen Interessen nothwendig erscheinen lassen, weist der Minister die schon bisher erlangten Resultate dieser Gesandtschaft auf politischem und commerciellem Gebiete des Näheren nach und betont erneuert die Nothwendigkeit der Aufrechterhaltung dieser Gesandtschaft.

Delegirter Dumba wünscht die Vertretung Oesterreich-Ungarns im Oriente auf allen Punkten möglichst gewahrt und plädirt daher für die Aufrechterhaltung dieser Gesandtschaft, was auch beschlossen wird.

Dr. Gross beantragt, den Botschafterposten bei der Curie zu streichen. Der Kirchenstaat habe als solcher aufgehört, Oesterreich stehe der Curie als einem confessionellen Oberhaupte gegenüber, das zufällig im Auslande weilt. Die Gesandtschaft am italienischen Hofe vermöchte die etwaigen Geschäfte der Botschaft zu versehen. Graf Andrássy erwiedert: Allerdings habe der Kirchenstaat als Staat aufgehört, zu existiren; allein von ganz Europa sei dem Oberhaupte der katholischen Kirche die Exterritorialität und Souveränetät gewahrt sowie das Recht zuerkannt worden, diplomatische Vertretungen zu bestellen und zu empfangen. Wenn schon keine der Mächte auf dieses Recht verzichtet habe, so liege für Oesterreich-Ungarn gewiss kein geringes Interesse vor, dasselbe auszuüben.

Der Minister erinnert, wie sich gerade jetzt der Scheidungsprocess zwischen weltlicher und kirchlicher Macht in ganz Europa vollziehe und wie speciell der österreichisch-ungarischen Regierung nicht bloss die Interessen von 28 Millionen katholischer Unterthanen und deren Rechte, sondern auch insbesondere die Rechte des Staates und die Rechte des Kaisers und Apostolischen Königs zu vertreten obliege, die nicht aufgegeben werden können. || Die bestehende Repräsentanz mit jener am Hofe des Königs von Italien zu verschmelzen, erscheine absolut unthunlich angesichts der Beziehungen, wie sie zwischen der Curie und der italienischen Regierung notorisch bestehen. Es bleibe sonach nur die Herabsetzung der Botschaft zu dem Range einer Gesandtschaft, was lediglich eine finanzielle Maassregel wäre, deren materieller Erfolg jedoch bei den ohnehin schon vorgenommenen Reductionen der Bezüge verschwindend klein und keineswegs geeignet sein würde, den Abbruch aufzuwägen, den hiedurch die Prärogative der Stellung unseres Vertreters erlitten.

Der Antrag des Dr. Gross wird hierauf abgelehnt und das Budget des Ministeriums des Aeussern in allen seinen Positionen conform der Regierungsvorlage angenommen.

Libanon-Angelegenheit*).

Nr. 5143.

OESTERREICH - UNGARN. — Gesandter in Konstantinopel (Graf Ludolf) an den k. u. k. Min. d. Ausw. — Rustem Bey an Stelle Franco Pascha's zum Gouverneur des Libanon designirt.

Constantinople, le 15 janvier 1873.

Nr. 5143. Oesterreich-Ungarn. 15. Jan. 1873.

J'ai eu l'honneur d'annoncer à Votre Excellence le 11 de ce mois télégraphiquement l'acceptation par Rustem Bey, du poste de Gouverneur Général du Mont Liban. Sous peu Khalil Pacha convoquera les Représentants des Puissances signataires du Réglement concernant la Montagne, pour nous communiquer officiellement les motifs qui doivent décider la Sublime Porte de mettre Franco Pacha à la retraite et pour demander notre assentiment à son remplacement par Rustem Bey. || Autant que j'ai pu m'en assurer, ce choix ne rencontrera aucune objection de la part des autres Représentants et j'ose espérer que Votre Excellence voudra bien m'autoriser à y consentir de mon côté. || Veuillez agréer, etc.

Ludolf.

Nr. 5144.

OESTERREICH - UNGARN. — Gesandter in Konstantinopel an den k. u. k. Min. d. Ausw. — Rustem Pascha wünscht zehnjährige Amtsdauer.

Constantinople, le 2 avril 1873.

Nr. 5144. Oesterreich-Ungarn. 2. April 1873.

Rustem Pacha, désigné pour le poste de Gouverneur Général du Mont Liban, est venu me voir ces jours-ci et a confirmé la supposition énoncée dans le postscriptum de mon très humble rapport du 28 mars, qu'il désirait obtenir, pour la durée de son administration, un terme plus long que celui de 3 ans, prévu par le projet de protocole concernant sa nomination au poste précité. Rustem Pacha m'a même déclaré, qu'il ne saurait se contenter du terme de 5 ans, jadis accordé à Daoud Pacha, mais qu'il était obligé d'insister sur celui de 10 ans, dont avait joui son prédécesseur Franco Pacha.

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*) Vgl. Staatsarchiv Bd. I Nr. 40, 41, Bd. VIII Nr. 1810—15, Bd. X Nr. 2098—2107 und Bd. XVI Nr. 3555, 3556. A. d. Red.

Nr. 5144. Oesterreich-Ungarn. 2. April 1873.

Il a motivé cette demande par la circonstance qu'un terme plus restreint impliquerait non seulement un certain manque de confiance, mais donnerait aussi à sa nomination un caractère de provisoire, qui pourrait facilement nuire au prestige de son autorité vis-à-vis des populations de la Montagne. || En attendant et jusqu'à ce que la Sublime Porte se soit prononcée sur la demande de Rustem Pacha, la réunion de la Conférence reste provisoirement suspendue. || Veuillez agréer, etc.

Ludolf.

Nr. 5145.

OESTERREICH-UNGARN. — Gesandter in Konstantinopel an den k. u. k. Min. d. Ausw. — Zustimmung der Pforte zur zehnjährigen Amtsdauer.

Constantinople, le 12 avril 1873.

Nr. 5145. Oesterreich-Ungarn. 12. April 1873.

La Sublime Porte s'est laissé convaincre par les représentations de Rustem Pacha, dont j'ai fait mention dans mon très humble rapport du 2 de ce mois, et a consenti à fixer la durée de son administration dans le Liban à 10 ans, conformément à ce qui s'est pratiqué lors de la nomination de son prédécesseur. || Le projet de protocole à signer par les Représentants, relativement à la nomination de Rustem Pacha, a donc dû être changé dans le sens de ce qui précède et j'ai l'honneur de soumettre à Votre Excellence ci-joint une copie de sa nouvelle rédaction. || Mercredi prochain, 16 de ce mois, les Représentants étrangers devront se réunir chez le Ministre des affaires étrangères pour procéder à la signature de ce protocole. || J'espère que Votre Excellence voudra bien m'approuver si j'ai cru pouvoir consentir au terme de 10 ans, puisque les raisons alléguées par Rustem Pacha en faveur de cette prolongation ont incontestablement une certaine valeur et qu'il serait difficile d'alléguer un motif valable pour refuser aujourd'hui à Rustem Pacha ce qu'on a cru pouvoir accorder jadis à Franco Pacha. || Le nouveau Gouverneur du Liban compte se rendre le lendemain de la signature du protocole à son poste, où il est attendu avec impatience. || Veuillez agréer etc.

Ludolf.

Nr. 5146.

OESTERREICH-UNGARN. — Gesandter in Konstantinopel an den k. u. k. Min. d. Ausw. — Uebersendung des Protokolls über die Ernennung Rustem Pascha's.

Constantinople, le 24 avril 1873.

Nr. 5146. Oesterreich-Ungarn. 24. April 1873.

Dans mon très humble rapport du 12 courant, j'avais eu l'honneur de dire que le 16 de ce mois devait avoir lieu la signature du protocole relatif à la nomination de Rustem Pacha au poste de Gouverneur de Mont Liban. || Le changement dans le grandvisirat qui est intervenu dans l'entretemps et quelques difficultés soulevées par la France au sujet de l'extension de la durée de l'administration de Rustem Pacha de 3 à 10 ans, ont encore une fois retardé la signature du protocole qui n'a pu se réaliser que le 22 de ce mois. || Je m'empresse de soumettre ci-joint à Votre Excellence l'original de ce protocole, dont le texte présente quelques différences avec celui du projet qui se trouve annexé à mon rapport susdit du 12 avril. || Ces modifications ont été proposées par M. l'Ambassadeur de France dans le but de préciser davantage que les signataires du protocole n'entendraient confirmer la nomination de Rustem Pacha que pour le terme de dix ans. M. le Comte de Voguë a cru devoir insister sur une rédaction qui laisserait plus clairement ressortir cette pensée, puisque le protocole du 27 juillet 1868, auquel se réfère celui que nous venons de signer, n'avait pas tracé une limite fixe à la durée de l'administration du prédécesseur de Rustem Pacha et s'était borné à déclarer seulement qu'elle ne serait pas moindre de dix ans. || Or, ce qui en 1868 était adopté comme un minimum de la durée de l'administration de Franco Pacha, devait aujourd'hui, de l'avis du gouvernement français, être considéré comme le maximum de ce qu'on concéderait pour le moment à Rustem Pacha. || Cette limitation ne devait pourtant pas exclure la possibilité de prolonger ce terme, s'il y avait lieu, aussi en faveur de Rustem Pacha, mais une pareille concession supposerait alors et après l'expiration de 10 ans une nouvelle entente entre la Sublime Porte et les Représentants des Puissances signataires du présent protocole. || Puisque Safvet Pacha a fini par admettre la rédaction proposée par M. l'Ambassadeur de France et que les autres Représentants n'avaient aucun motif pour s'y opposer, elle a été adoptée à l'unanimité et le projet ainsi modifié a servi de modèle au protocole que j'ai eu l'honneur de soumettre à l'approbation de Votre Excellence. || Rustem Pacha compte se rendre à son poste par le bateau du Lloyd, qui part d'ici le 1er mai directement pour Béirout. || Veuillez agréer, etc.

Ludolf.

Beilage.

Protocole.

Nr. 5146. Türkei und Grossmächte. 22. April 1873.

Le poste de Gouverneur du Liban étant devenu vacant par suite du décès de Franco Nasri Pacha, Sa Majesté Impériale le Sultan a daigné nommer Rustem Pacha, ex-Ambassadeur à St. Pétersbourg, en qualité de nouveau Gouverneur. || Les Représentants des Puissances signataires du Réglement organique du Liban, en date du 9 juin 1861[1]), de celui du 6 septembre 1864[2]) et du protocole du 27 juillet 1868[3]), réunis en conférence chez le Ministre des affaires étrangères de Sa Majesté le Sultan, ont été unanimes pour constater, par le présent protocole, l'accord préalable qui, à l'occasion de cette nomination, s'est établi entre eux et la Sublime Porte. || La Sublime Porte, ainsi que les Représentants des Puissances déclarent maintenir les dispositions des protocoles du 28 juillet 1868, relatives au terme de dix ans assigné aux pouvoirs du Gouverneur, et maintenir en même temps celles des dispositions des protocoles antérieurs qui n'ont pas été modifiées ou qui ont été confirmées par le dit protocole. || En foi de quoi, les plénipotentiaires respectifs ont signé le présent protocole et y ont apposé le sceau de leurs armes. || Fait à Constantinople, le vingt-deux avril dix-huit cent soixante-treize.

(l. s.) Safvet m. p.

(l. s.) Ludolf m. p.
(l. s.) Keudell m. p.
(l. s.) Voguë m. p.
(l. s.) Henri Elliot m. p.
(l. s.) H. Cova m. p.
(l. s.) N. Ignatiew m. p.

Suezkanal-Angelegenheit*).

Nr. 5147.

OESTERREICH-UNGARN. — Consul in Suez an den k. u. k. Min. d. Ausw. — Beabsichtigte Tarif-Erhöhung.

Suez, den 30. März 1872.

Nr. 5147. Oesterreich-Ungarn. 30. März 1872.

Soeben erhalte ich von der Suezkanal-Verwaltung die Mittheilung, dass in Zukunft bei der Bemessung des Tonnengehaltes der durch den Kanal

[1]) S. Staatsarchiv Bd. I Nr. 40. A. d. Red.
[2]) S. Staatsarchiv Bd. VIII Nr. 1813. A. d. Red.
[3]) S. Staatsarchiv Bd. XVI Nr. 3555. A. d. Red.
*) Vgl. Staatsarchiv Bd. VIII, Bd. XII Nr. 2642—47 und Bd. XVII. A. d. Red.

gehenden Schiffe nach Zuschlag von 30% für englische Segel- und 43% für deren Dampfschiffe die englische Tonne maassgebend sein soll, und dass Schiffe anderer Nationalitäten die nach dieser Weise zu berechnende Durchfahrtsgebühr von 10 Francs per Tonne zu entrichten haben werden. || Diese neue Bemessung soll mit 1. Juli l. J. in Kraft treten, und wird für unsere Schiffe im Verhältnisse zu der bisherigen Taxe eine Mehrausgabe von ebenfalls 43%, nach Aussage der Kanalverwaltung aber von nur 38% nach sich ziehen. || Genehmigen u. s. w.

Nr. 5147. Oesterreich-Ungarn. 30. März 1872.

Rémy-Berzencovich.

Nr. 5148.

OESTERREICH-UNGARN. — Gesandter in Konstantinopel an den k. u. k. Min. d. Ausw. — Schritte gegen die Erhöhung des Kanaltarifes.

Konstantinopel, den 2. Juli 1872.

Nr. 5148. Oesterreich-Ungarn. 2. Juli 1872.

Ich hatte die Ehre, das hohe Telegramm vom 28. v. M. am Morgen des 29. zu erhalten, welches mich beauftragt, die bons offices der Pforte bei dem Khediv anzusuchen, damit die für den 1. l. M. beabsichtigte Activirung des neuen Suezkanal-Gebührentarifes suspendirt werde. || Da ich mich noch am selben Tage zu Server Pascha verfügte, so trug ich ihm auch diese Angelegenheit vor und erhielt von dem Herrn Minister die Entgegnung, er habe bereits, ehe noch der Khediv hier eingelangt war, denselben telegraphisch ersucht, Herrn von Lesseps aufzufordern, an dem bisherigen Gebührentarife nichts zu ändern, bis nicht über die Modificirung desselben ein Einverständniss zwischen der Pforte und den Mächten erzielt sein werde. || Server Pascha ersuchte mich, dies Eurer Excellenz zu melden, und fügte bei, dass die Pforte in eine Erhöhung der Gebühren von fast 45%, wie sie Herr Lesseps beabsichtigt, um so weniger willigen könne, als die dermalige Administration viele Schäden aufweise. Ehe man daher eine Erhöhung der Gebühren zulasse, die der Benutzung des Kanals selbst Eintrag thun könnte, sei es nothwendig, zu untersuchen, in wie weit selbe durch die Umstände auch wirklich gerechtfertigt ist und ob nicht durch eine zweckmässigere Administration und Vereinfachung der Kosten Ersparnisse zu erzielen wären, die eine neue Belastung der Schifffahrt entweder ganz entbehrlich machen oder sie wenigstens auf ein bescheideneres Maass zurückführen würden, als es Herr von Lesseps beabsichtigt. || Später erfuhr ich, dass Herr Lesseps bereits erklärt hätte, er glaube sich berechtigt, den Firman zu interpretiren, wie er den Interessen der Gesellschaft am meisten entspreche, und werde sich durch Pfortenbefehle darin nicht beirren lassen. Daraufhin hat die Pforte erst vor

Nr. 5148. Oesterreich-Ungarn. 2. Juli 1872.

wenigen Tagen ihre Einsprache erneuert; da aber mittlerweile Herr Lesseps Aegypten verlassen und sich nach Paris begeben hatte, wurde ihm das betreffende Telegramm, welches der Agent der Suezgesellschaft in Aegypten sich anzunehmen weigerte, dahin nachgesendet, ohne dass man bisher von ihm eine Antwort erhalten hätte. || Ich glaube, dass es das allgemeine Interesse erheischt, die Hoheitsrechte der Pforte in diesem Punkte zu unterstützen, die französische Ingerenz fernzuhalten und dem Kanale seinen internationalen Charakter zu bewahren. || Genehmigen u. s. w.

Ludolf.

Nr. 5149.

OESTERREICH-UNGARN. — Min. d. Ausw. an die k. und k. Missionen in Paris, Berlin und Rom. — Mittheilung, dass England ein gemeinsames Vorgehen der Seemächte wünscht.

Wien, den 28. September 1872.

Nr. 5149. Oesterreich-Ungarn. 28. Sept. 1872.

Der englische Botschafter hat mir den Wunsch seiner Regierung zu erkennen gegeben, womöglich ein gemeinsames Vorgehen der Seemächte in Angelegenheit der mit 1. Juli l. J. ins Leben getretenen Suezkanal-Gebührenerhöhung herbeizuführen. || Durch diese Erklärung ist England den in Konstantinopel gemachten Schritten Oesterreich-Ungarns, Italiens und zuletzt auch Deutschlands beigetreten und hat die ihm vermöge seiner Meistbetheiligung an der Schifffahrtsbewegung im Suezkanale zukommende Rolle in der Opposition gegen die in Rede stehende Maassregel der Kanalcompagnie übernommen. || Da ich voraussetze, dass die Regierung, bei welcher Euer Excellenz beglaubigt sind, eine ähnliche Mittheilung des Londoner Cabinets erhalten hat, und es für mich von Werth wäre, deren Beschluss kennen zu lernen, so wollte ich nicht unterlassen, Euer Excellenz darauf aufmerksam zu machen, und ersuche Sie, sich über die Aufnahme, welche die einschlägigen Eröffnungen des englischen Vertreters daselbst gefunden haben, erkundigen und mir darüber bald berichten zu wollen. || Empfangen u. s. w.

Andrássy.

Nr. 5150.

OESTERREICH-UNGARN. — Geschäftsträger in Paris (Graf Hoyos) an den k. u. k. Min. d. Ausw. — Französische Auffassung der Sachlage.

Paris, den 5. October 1872.

Nr. 5150. Oesterreich-Ungarn. 5. Oct. 1872.

In der Voraussetzung, dass die englische Regierung das französische Gouvernement von ihrer Auffassung der Suezkanal-Frage ebenfalls in Kenntniss gesetzt und die Absicht in Paris zu erkennen gegeben habe, in dieser Angelegenheit ein gemeinsames Vorgehen der Seemächte zu erzielen, haben mir Euer Excellenz mit Depesche vom 29. v. M. den Auftrag ertheilt, mich an maassgebender Stelle zu erkundigen, welche Aufnahme die einschlägigen Eröffnungen des englischen Vertreters bei der französischen Regierung gefunden haben; auch legten Hochdieselben darauf Werth, den Standpunkt kennen zu lernen, welchen die französische Regierung überhaupt in dieser Angelegenheit einnimmt. || Die mir in dieser doppelten Beziehung vom Director der commerziellen Angelegenheiten im Ministerium des Aeussern ertheilten Auskünfte gehen dahin, dass die Mittheilungen der englischen Regierung einen Erlass an den französischen Botschafter in Konstantinopel zur Folge hatten, durch den Letzterer beauftragt wurde, ins Klare zu bringen, wie die Pforte den Ausdruck "tonneau de capacité" ausgelegt wissen will; denn es ist vor Allem — nach der Ansicht des französischen auswärtigen Amtes — Sache der ottomanischen Regierung, zu erklären, ob die von der Suezkanal-Gesellschaft gegebene Interpretation und das der Gebührenberechnung zu Grunde liegende Verfahren dem Sinne der betreffenden Firmanstelle entspreche oder nicht. || Die französische Regierung scheint übrigens dafür zu halten, dass das beste Mittel, diese Frage zu entscheiden und künftige Contestationen zu beseitigen, darin bestände, das englische Aichungssystem anzunehmen. || Genehmigen u. s. w.

Hoyos.

Nr. 5151.

TÜRKEI. — Botschafter in Wien (Aarifi Bey) an den k. u. k. Min. d. Ausw. — Einladung zu einer Konferenz über Schiffsmessung.

Vienne, le 14 janvier 1873.

Nr. 5151. Türkei. 14. Jan. 1873.

Grâce au développement des voies de communication, les relations des peuples entre eux prennent une grande extension. — Il en résulte une solidarité d'intérêts qui, envisagée au point de vue du Commerce maritime, tend

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à faire disparaître les mesures de protection établies en faveur du pavillon national. D'un autre côté les progrès de la science sont tels, de nos jours, qu'on peut déterminer avec précision la dimension d'un navire et sa capacité utilisable pour le transport des marchandises. ‖ Aussi la Sublime Porte ne doute pas qu'une Commission de savants et d'hommes spéciaux parviendrait à trouver un mode uniforme de mesurer les navires et à fixer un tonneau-type qui servirait à la fois de base pour les transactions commerciales et pour la perception des droits auxquels est assujettie la navigation. ‖ Animée du désir d'assurer un traitement égal à tous les navires sans distinction de pavillon qui fréquentent les ports de l'Empire et en égard aux difficultés surgies, par suite de la récente modification apportée dans la perception de la taxe de navigation que paient les bâtiments traversant le Canal de Suez, la Sublime Porte aime à croire que toute proposition ayant pour but l'adoption d'un jaugeage uniforme, sera accueillie avec faveur par les Etats maritimes. ‖ En conséquence le soussigné Ambassadeur de Turquie a l'honneur, d'ordre de son Gouvernement, de soumettre les considérations qui précèdent à la haute appréciation de Son Excellence Monsieur le Ministre de la Maison Impériale et des affaires étrangères et La prie, en même temps, de vouloir bien lui faire connaître les vues du Gouvernement de Sa Majesté Impériale et Royale Apostolique sur l'institution de la Commission dont il s'agit soit à Londres, centre du commerce maritime, soit à Constantinople. ‖ Le soussigné saisit etc.

Aarifi.

Nr. 5152.

OESTERREICH-UNGARN. — Min. d. Ausw. an den kais. türkischen Botschafter in Wien. — Annahme der Einladung.

Vienne, le 13 février 1873.

Nr. 5152. Oesterreich-Ungarn. 13. Febr. 1873.

Le Ministre des affaires étrangères de Sa Majesté l'Empereur et Roi a reçu la note que Son Excellence Aarifi Bey, Ambassadeur de Turquie, lui a fait l'honneur de lui adresser le 14 janvier dernier pour lui faire connaître que la Sublime Porte avait conçu le projet d'instituer, soit à Londres soit à Constantinople, une commission technique qui serait chargée de trouver un mode uniforme de mesurer les navires et un tonneau-type pour les transactions commerciales et pour la perception des droits auxquels devront être assujettis les navires sans distinction de pavillon qui fréquentent les ports de l'Empire ottoman. ‖ L'idée de cette commission ayant pris son origine dans les difficultés qui ont surgi récemment par suite d'une modification apportée dans la perception de la taxe de navigation que paient les bâtiments traver-

sant le Canal de Suez, le Gouvernement de Sa Majesté l'Empereur et Roi ne peut que féliciter la Sublime Porte de l'initiative qu'Elle a prise pour obtenir le double but qu'Elle s'est proposée. || D'abord en proposant un mode uniforme de jaugeage tel que le serait par exemple le système anglais, déjà adopté par la plupart des Puissances maritimes, le Gouvernement de Sa Majesté Impériale le Sultan s'acquerra un très grand mérite aux yeux du commerce de toutes les nations. || Ensuite si le tonnage anglais était pris pour base afin de trouver l'interprétation la plus juste du terme "tonneau de capacité" employé à l'article 17 du firman de concession, la Sublime Porte parviendra bientôt — il est permis de l'espérer — à régler d'une manière satisfaisante la question litigieuse des taxes du Canal de Suez. || Certes qu'il ne sera pas trop difficile de trouver à l'aide de la même commission internationale un moyen-terme propre, d'un côté à subvenir aux besoins réels de la Compagnie du canal, digne sans doute des soins protecteurs de la Puissance suzeraine, de l'autre côté à sauvegarder les droits acquis par des tiers, surtout par les grandes entreprises maritimes qui ont été fondées en Europe sur la foi du même firman de concession. || En effet, en fixant, par l'article 17 de ce firman, un maximum de taxes pour le pavillon de toutes les nations, la Sublime Porte a engagé son autorité de législateur et son crédit de Puissance garante: Elle a donc le droit d'interpréter les termes de son firman ainsi qu'Elle a le devoir de faire respecter les actes émanés de son autorité. || Les autres Gouvernements par contre, dans les états desquels des entreprises navales à vapeur ont été fondées et subventionnées sur la foi du maximum des taxes garanti par la Sublime Porte, ont qualité pour réclamer en faveur de leurs nationaux contre une interprétation arbitraire de la Compagnie et ils ont un juste titre à être consultés au sein d'une commission convoquée pour examiner et pour applanir les différends survenus. || Dans cet état des choses le Gouvernement de Sa Majesté l'Empereur et Roi n'hésite pas à rendre hommage à l'initiative si heureusement prise par la Sublime Porte et à accepter son invitation à prendre part à la commission en instance, dont le siége lui paraît être le plus convenablement fixé dans la capitale même de l'Empire ottoman. || En priant M. l'Ambassadeur de vouloir bien porter ce qui précède à la connaissance du Gouvernement de Sa Majesté le Sultan, le soussigné saisit etc.

Andrássy.

Nr. 5153.

GROSSBRITANNIEN. — Min. des Ausw. (Earl Granville) an den königl. Botschafter in Konstantinopel (Sir H. Elliot). — Bedenken gegen die Absicht der Türkei, die allgemeine Frage der Schiffsmessung und die Sueztarif-Frage zu trennen.

Foreign Office, March 3, 1873.

Nr. 5153. Grossbritannien. 3. März 1873.

Sir! — Her Majesty's Government have had under their consideration your Excellency's despatches relating to the Suez-Canal dues, and have caused a careful inquiry to be made by this Department and the Board of Trade into the whole subject. || As I informed you in my despatch of the 31 of August, Her Majesty's Government wish to see a liberal and fair interpretation put upon the Concession made to the Company, and it is in this spirit that they have given the matter their best attention. || In your despatch of the 20th ultimo, you state that the instructions given to you in my despatch of the 6th of December, with regard to the proposal of a Conference which Her Majesty's Government had been informed by you it was the intention of the Turkish Government to make, went further than had been contemplated by that Government, and that you were convinced, that the Porte had no intention of inviting foreign Governments to pronounce authoritatively upon the extent of the dues to be levied. || In my above-mentioned despatch, which was communicated to the Governments of other Maritime Powers, I had stated, that Her Majesty's Government are prepared to take part in a Conference of the Maritime Powers interested in the question with a view to bringing about an agreement as to the nature and extent of the dues to be levied by the Suez-Canal-Company under the terms of the Act of Concession, as well as to the basis, upon which the tonnage measurement adopted by the Company is to be established. || Her Majesty's Government had not contemplated any discussion in the Conference of the right of the Porte to fix the sum of 10 francs per ton for the dues under the present Concession, or its right to grant a fresh Concession, but merely to determine what is meant by the expression "tonneau de capacité", in the existing Concession, the result arrived at to apply to the increased dues levied since July last and to any future dues to be levied under the existing Concession. || Since that despatch was written the aspect of the question has, however, materially changed. || Her Majesty's Government have now received a formal invitation from the Porte, of which a copy was inclosed in my despatch of the 20th of January. In this communication the Turkish Government states "le désir du Gouvernement Impérial d'assurer un traitement égal à tous les navires, sans distinction de pavillon, qui fréquentent les ports de l'Empire, et les difficultés surgies par suite de la récente modification apportée dans la perception de la taxe de

navigation que paient les bâtiments traversant le Canal de Suez, nous donnent la certitude qu'une démarche ayant pour but d'arriver à l'adoption d'un jaugeage uniforme serait accueillie avec faveur par les Etats Maritimes . . . le Gouvernement Impérial ne doute pas qu'une Commission de savants et d'hommes expérimentés parviendrait à trouver un mode uniforme de mesurer les navires et à fixer un tonneau-type qui servirait à la fois de base pour les transactions commerciales et pour la perception des droits auxquels est assujettie la navigation". The Ottoman Government adds a suggestion, that the Commission should meet in London or Constantinopel. || Her Majesty's Government are further informed by your despatch of the 20th of January, that it is the intention of the Porte to appoint a Commission to be named by itself to inquire into certain questions connected with the change of the dues. || There are, therefore, three points, on which it remains for me to convey to you the views of Her Majesty's Government: — || 1st. The proposal of the Porte for the appointment of a Commission for the purpose of establishing an uniform standard of tonnage. || 2nd. The course which should be pursued as to the change of dues. || 3rd. The question of the dues to be levied for the future. || Upon the first point I have to state to you, that Her Majesty's Government presume that it is the desire of the Porte that the Commission should be composed of Commissioners to be named by each of the Maritime Powers. Her Majesty's Government have constantly urged the importance of an uniform standard of tonnage measurement, and many countries have recently adopted the method of measuring gross tonnage in use in Great Britain. They are, therefore, glad to join in such a Commission, and are prepared at once to name Colonel Stokes, late Commissioner for the navigation of the Danube, as Her Majesty's Commissioner. The method of measuring gross tonnage would probably require little discussion, but if the Commission could decide upon the question whether any, and what, deductions should be allowed on account of engine-room or otherwise, and how, if at all, cargo-carrying spaces on deck should be measured, the result would be most beneficial to the interests of maritime commerce. || You will, however, explain to the Porte, that the consent of Her Majesty's Government to this Commission is accompanied with the reservation that the conclusions at which the Commission may arrive shall not become operative until they have been referred to all the Powers, and shall have been accepted by them. || Her Majesty's Government consider, that, under all the circumstances, it would be better that the Commission should meet in London, where the best information can be procured as to the commercial transactions and navigation dues, in respect of which the Porte has proposed its appointment. || With regard to the course which should be pursued as to the change of dues, Her Majesty's Government entirely approve the note addressed by you to the Turkish Government on the 17th ultimo, of which a copy is inclosed in your despatch of the 20th ultimo, in which you express the hope that before the

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wish of the Company for authority to increase the dues is examined, it will be called upon to return to the original charge and to abandon a system, of which the Turkish Government has demonstrated the illegality. || Her Majesty's Government hold, that the exaction of these increased dues is illegal, as has been conclusively shown by the statements made by Khalil Pasha to yourself and in his correspondence with Server Pasha, and they look to the Ottoman Government to enforce the authority of the Porte over the Company, and to secure the repayment with interest of the excess dues paid under protest, both by the captains of Her Majesty's ships-of-war and transports and by British subjects generally. || As the nature of the questions which the Commission to be appointed by the Porte is to examine has not yet been explained, I can only state to you at present that Her Majesty's Government would expect that the interests of British commerce should be duly represented at the inquiry, and they trust that the Commissioners will be persons whose judgment in such matters will command respect. || Her Majesty's Government cannot, however, suppose, that it can be the intention of the Porte that there should be two Commissions sitting concurrently, one to examine the measurement of tonnage for international adoption, and the other to report upon the system of tonnage measurement to be recognized on the Suez-Canal. It appears to them that the duties of the Commission nominated by the Porte could not usefully commence until the report of the International Commission has been furnished. || Her Majesty's Government do not desire to anticipate that report, but they feel confident that it will absolutely reject the erroneous arguments and illusory calculations, upon which the Company have proceeded in making the recent change in the dues. As an illustration of these, I have only to refer to the discrepancy between the calculations in the letter from M. de Lesseps and M. Courette to Messrs. Morses and Mitchell of the 5th of July last, and those in the letter written by M. de Lesseps to Sir E. Lange on the 9th of December for communication to the Admiralty, of which a copy is inclosed in my despatch of the 26th ultimo. || With regard to the dues to be levied for the future, it seems to Her Majesty's Government that the Turkish Government should in the first place notify distinctly to the Company, that the Porte does not recognize or in any way assent to the system of levying the dues practised since July last, and that it will not authorize any change in the dues from the scale on which they were levied at the opening of the Canal until after due examination and inquiry. || Her Majesty's Government do not in the slightest degree impugn the right of the Porte to increase the dues, nor did they make any representations on the subject when authority for a temporary increase for a special purpose of 1 franc per ton was granted to the Company in 1871. The Company is, as Her Majesty's Government consider, Egyptian, and the rights over it of the Porte are undoubted. || Her Majesty's Government, however, feel confident that the Turkish Government cannot but

be sensible of the equitable consideration, which is due from the Porte to the great maritime interests which are concerned. By the Firman of 1866 the Porte solemnly endorsed the Concession of 1856, made by the then Viceroy of Egypt to the Company, in which the rates of dues to be levied were specified, and on the faith of which numbers of vessels have been constructed in France, England, and elsewhere, for traffic through the Canal, which has thus become one of the highways of the world, the obstruction of which, by the imposition of an excessive toll, would be an injury to commerce which Her Majesty's Government cannot believe the Porte would willingly inflict, and against which every nation would be driven to protest. || Her Majesty's Government accordingly consider that, if the Commission to be named by the Porte should be authorized, after the basis of tonnage has been settled in the International Commission, to entertain the question of granting a fresh firman, enabling the Company to raise the dues, the interests of the shipowners, especially in the case of passenger ships, on which even the present system presses heavily, should be fully considered, and before any change is agreed to, the administration of the Company, which is represented as unduly extravagant, should be inquired into, with the view of seeing whether an economy in that respect might not furnish sufficient funds, without recourse to an increase of dues; and, lastly, that the Report should be made known before being finally acted on by the Porte, in order to afford an opportunity for Her Majesty's Government and the other Governments interested to furnish such observations upon it as may be proper for the consideration of the Porte. || A copy of this despatch will be furnished to Her Majesty's Representatives in the principal maritime countries, for communication to the Governments to which they are accredited. || I am, etc.

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Granville.

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FRANKREICH. — Verbalnote des auswärtigen Amts an den k. u. k. Botschafter (Graf Apponyi). — Frankreich will die Gebührenfrage zunächst der Pforte überlassen.

Versailles, le 10 mars 1873.

Son Excellence Mr. l'Ambassadeur d'Autriche-Hongrie à Paris a communiqué à Mr. de Rémusat, le 22 février dernier, la note que son Gouvernement a fait remettre, le 13 du même mois, à la Porte ottomane au sujet de la réunion, proposée par le Gouvernement du Sultan, d'une Conférence internationale qui serait chargée de préparer l'unification générale des méthodes de jaugeage des navires. Mr. le Comte Apponyi a exprimé, en même temps,

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le désir de savoir si le Gouvernement français serait disposé à accueillir les ouvertures de la Porte et, en outre, à déférer à la Conférence projetée l'examen des questions soulevées par le nouveau mode de calcul des droits perçus au passage du Canal de Suez. || Si cette Conférence doit être chargée de réaliser l'oeuvre, aussi difficile qu'importante, de l'unification des systèmes de jaugeage, le Gouvernement français lui prêtera son concours le plus empressé. Mais, dans le cas, il lui paraîtrait impossible de subordonner le réglement de l'affaire spéciale du Canal de Suez à l'éventualité, sans doute éloignée, d'une entente universelle des Puissances, non seulement sur l'adoption de la méthode qui donnerait les résultats les plus conformes à la vérité en faisant ressortir toute la capacité utilisable des navires, mais encore sur l'abaissement des taxes maritimes qui serait la conséquence forcée de l'élévation du tonnage officiel. || Quant à la réunion d'une Conférence qui aurait à s'occuper spécialement du péage du Canal, l'Ambassadeur de France à Constantinople est autorisé à y adhérer sous certaines conditions, dont Mr. de Rémusat croit pouvoir faire connaître la substance sans s'écarter de la réserve à laquelle il se trouve astreint par le litige encore pendant devant les tribunaux français entre la Compagnie de Suez et celle des Messageries maritimes. || Il paraît tout d'abord, au Gouvernement français, que préablement à la convocation de cette Conférence, la Porte ottomane doit décider si c'est sur la capacité réellement utilisable, ou seulement sur le tonnage officiel, que doit être basée la perception des taxes imposées aux navires dans le Canal de Suez. Le débat qui s'est élévé entre les armateurs et la Compagnie repose tout entier, en effet, sur l'interprétation des mots tonneau de capacité, et c'est, en définitive, au Gouvernement du Sultan qu'il appartient de fixer le sens de cette expression. Jusque là, non seulement la réunion de la Conférence projetée serait sans objet, mais encore son mandat lui-même ne saurait être défini, car il variera forcément suivant que la question sera résolue dans l'un ou dans l'autre sens. || Si le Gouvernement du Sultan déclare que, d'après le sens qu'il entend donner aux termes du firman, la Compagnie de Suez n'excède pas les limites de son Tarif en prenant pour base de perception le tonnage utile des navires, il y aura lieu, à moins qu'on ne préfère régler ces points par voie de correspondance, de faire déterminer par une Commission internationale, d'abord l'écart existant entre la capacité utilisable des bâtiments et le tonnage inscrit sur les papiers de bord, ensuite la méthode que la Compagnie aurait à employer pour calculer cette différence. Si, au contraire, la Porte interprétait le firman dans le sens du tonnage officiel, la réunion de cette Commission ne saurait plus avoir qu'un but: celui de préparer les bases d'un acte collectif d'adhésion des Puissances maritimes à l'exhaussement de Tarif que le Gouvernement turc se verrait alors obligé d'autoriser d'urgence, pour que la Compagnie de Suez pût faire face à ses engagements et continuer l'exploitation du Canal dans des conditions équitablement rémunératrices. || En ce qui concerne la question de juridiction, à la-

quelle il est fait allusion dans la note de M. le Comte Apponyi, le Gouvernement français pense qu'elle doit être réglée séparément et qu'il est préférable de ne pas la déférer à l'appréciation de la Conférence projetée. || Mr. l'Ambassadeur de France à Vienne est, au surplus, en mesure de fournir, sur la manière de voir du Gouvernement français concernant le nouveau mode de perception adopté par la Compagnie de Suez, les explications complémentaires que désirerait obtenir le Gouvernement de Sa Majesté Impériale et Royale Apostolique.

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OESTERREICH-UNGARN. — Min. des Ausw. an den k. und k. Gesandten in Konstantinopel. — Darlegung der Sachlage und der Standpunkte der einzelnen Mächte.

Wien, den 10. April 1873.

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Die Angelegenheit der Suezkanal-Gebühren, sowie die damit in Verbindung gebrachten Fragen der Schiffsvermessung und der Aufstellung eines Normaltypus der Seetonne sind in der letzten Zeit von den betheiligten Cabineten vielfach und eingehend erörtert worden. Allgemein hat bei diesem Anlasse der Wunsch, für die Erhebung der Schifffahrtsabgaben auf dem Kanale ein bestimmtes System festzustellen und die Schwierigkeiten zu beseitigen, die durch die eigenmächtige und unberechtigte Erhöhung dieser Abgaben seitens der Suezkanal-Gesellschaft hervorgerufen worden sind, lebhaften Ausdruck gefunden. Ebenso scheinen die Dispositionen der betheiligten Regierungen sich in der Absicht zu vereinigen, allen billigen Ansprüchen der gedachten Compagnie innerhalb der Grenzen ihres erwiesenen Bedarfes und ohne Schädigung höherer Interessen nach Kräften Rechnung zu tragen, um die Erhaltung eines Werkes zu sichern, dessen hohe Bedeutung für den Welthandel Niemand verkennt. || Unter diesen Umständen ist die Einladung der Pforte, sich über den Zusammentritt einer internationalen, mit der Lösung dieser Frage betrauten Commission auszusprechen, von uns mit Freude begrüsst worden. Um die Aufgabe dieser Commission zu vervollständigen und einen definitiven Ausgleich der schwebenden Differenzen anzubahnen, habe ich in meiner an den türkischen Botschafter in Wien gerichteten Note vom 13. Februar d. J. nicht nur unsere Bereitwilligkeit zur Beschickung der angeregten Commission ausgesprochen, sondern zugleich hervorgehoben, dass derselben Commission auch die Prüfung und Schlichtung der auf die Suezkanal-Gebühren bezüglichen Streitpunkte übertragen werden sollte. Meine Auffassung dieser Frage ist im vertraulichen Wege zur Kenntniss der betheiligten Mächte gebracht worden. || Obwohl mir heute noch keine förmliche Rückäusserung der Pforte vorliegt,

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scheint doch Safvet Pascha nach den mir zugekommenen Nachrichten geneigt zu sein, meine Auffassung sich anzueignen. || Es gereicht mir zur besonderen Befriedigung, heute constatiren zu können, dass auch die Mehrzahl der Mächte, mit denen wir über diesen Gegenstand verhandelt haben, theils vollständig unserer Anschauung beigetreten ist, theils nicht wesentlich von derselben differirt. || Das Cabinet von Berlin hat Herrn von Keudell dahin instruirt, dass es unter der Voraussetzung der Beibehaltung des englisch-deutschen Systems der Schiffsvermessung geneigt sei, in der Commission in die Berathung der Frage einzutreten, welcher Abzug von dem Brutto-Raumgehalte eines Schiffes zu machen wäre, um den für die Abgabenberechnung maassgebenden Netto-Raumgehalt zu bestimmen. Zugleich aber erblickt es in der Beilegung der Differenzen über die Abgaben auf dem Suezkanale die Hauptaufgabe dieser Commission, deren Lösung auf diesem Wege auch dann zu versuchen wäre, wenn die Verhandlungen über die Annahme des britischen Schiffsvermessungs-Systems zu keinem Resultate führen sollten. || Die italienische Regierung ist in dieser Frage vom Anfange an in Uebereinstimmung mit uns vorgegangen, und Herr von Visconti-Venosta hat die Einladung der Pforte eben so bereitwillig wie wir acceptirt und den Wunsch ausgedrückt, dass die internationale Commission durch ihr competentes Votum die Lösung der aufgetauchten Schwierigkeiten in der Suezkanal-Angelegenheit anzubahnen berufen werden möge. || Der englische Botschafter hat mir die Instruktion mitgetheilt, die Lord Granville in der gleichen Angelegenheit an Sir H. Elliot erlassen hat. Lord Granville erklärt, an der Commission unter der Voraussetzung theilnehmen zu wollen, dass die diesbezüglichen Beschlüsse erst nach erfolgter Zustimmung aller Mächte als verbindlich angesehen werden. Zugleich geht Lord Granville jedoch von der Ansicht aus, dass die Pforte neben der internationalen Commission eine zweite türkische Commission zu ernennen beabsichtige, der die Entscheidung über die Abänderung der Suezkanal-Abgaben und deren Feststellung für die Zukunft übertragen werden sollte. Unter dieser Voraussetzung vindicirt er aber für die internationale Commission das Vorangehen vor den Verhandlungen der türkischen und betont die Berechtigung seiner Regierung, auf die Verhandlungen und Beschlüsse dieser letzteren einen gewissen Einfluss zu üben. || General Ignatieff ist von seiner Regierung gleichfalls angewiesen worden, die Bereitwilligkeit Russlands zur Theilnahme an den Verhandlungen der Commission der Pforte bekanntzugeben. || Die Kanalfrage wird mit diesen Verhandlungen in Verbindung gebracht und das Interesse hervorgehoben, das Russland an die Erhaltung des Kanals in den Händen der Compagnie knüpft. || Frankreich endlich ist ebenfalls bereit, die Commission zu beschicken, formulirt jedoch für den Fall, als die Verhandlungen sich auf die Frage der Suezkanal-Gebühren erstrecken sollten, die Bedingung, dass die Pforte sich vorher über ihre Auffassung des im Concessions-Firman enthaltenen Ausdruckes "tonneau de capacité" definitiv ausspreche. Approbirt die Pforte betreffs dieses Ausdruckes die Auffassung der

Compagnie, dann könne, meint Herr von Rémusat, der Commission überlassen werden, den Abzug festzusetzen, der mit Rücksicht auf die effektive, ausnutzbare Schiffstragfähigkeit zuzugestehen sei, und wäre die Methode zu bestimmen, nach der die Gesellschaft bei der Bemessung der Differenz zwischen dem Brutto-Raumgehalte und dem ausnutzbaren Raume eines Schiffes vorzugehen hätte. Billigt aber die Pforte diese Interpretation des "tonneau de capacité" nicht, dann würde der Commission die Aufgabe zufallen, die Grundlagen zu einer gemeinsamen Vereinbarung betreffs der unumgänglich nöthigen Erhöhung der Kanalabgaben aufzustellen und die Pforte zur Annahme dieser Erhöhung zu bestimmen. Das französische Cabinet steht heute mit seiner Auffassung dieser Frage auf demselben Standpunkte wie Herr von Lesseps. || Betreffs des Ortes, an dem die Commission zusammentreten soll, haben sich die Cabinete von Berlin und Petersburg mit uns für Konstantinopel ausgesprochen; Italien ist geneigt, ebenso Konstantinopel wie London zu acceptiren; Frankreich hat sich über diesen Punkt nicht geäussert, und nur England würde London als Sitz der Commission vorziehen. || Einig dürften endlich alle Mächte darüber sein, dass die Frage der Jurisdiction über die Suezkanal-Gesellschaft in Aegypten den Gegenstand einer abgesonderten Verhandlung zu bilden hätte. || Aus der voranstehenden Darstellung werden Euer Hochgeboren entnehmen, dass die Beschickung der angeregten Commission von Seite jener Mächte, an die von der Pforte Einladungen ergangen sind, als gesichert betrachtet werden kann. Nachdem Deutschland und Frankreich das englische System der Schiffsvermessung mit unwesentlichen Abänderungen schon acceptirt haben; Italien, Russland und wir, unter Voraussetzung der Annahme dieses Systems durch alle Mächte, bereit sind, dieses System gleichfalls anzunehmen, so darf vorausgesetzt werden, dass dieser Theil des Programms keinen besonderen Schwierigkeiten begegnen würde. || Auch darüber sind im Grunde alle Mächte einig, dass die Commission den Ausgleich der Differenzen über die Erhebung der Abgaben auf dem Suezkanale anzustreben hätte. Nach meinem Dafürhalten fällt die englische Auffassung, obwohl in der Form zum Theil abweichend, in der Wesenheit mit der unserigen zusammen. Denn, wenn Lord Granville die Verhandlungen über die Suezkanal-Gebühren der türkischen Commission zuweist, sich aber zugleich doch eine Einflussnahme auf die Verhandlungen und die Beschlüsse dieser Commission vorbehält, so dürfte es einfacher und zweckmässiger erscheinen und würde die Rechte der Pforte eben so ungeschmälert wahren, wenn alle einschlägigen Fragen direkt nur einer und derselben internationalen Commission zur Berathung und Entscheidung überantwortet werden, statt den legitimen Einfluss der betheiligten Mächte in dieser Angelegenheit nachträglich indirekt und von verschiedenen Seiten zur Geltung bringen zu müssen. Ich gebe mich der Hoffnung hin, dass England keine Schwierigkeiten erheben wird, sich in dieser Beziehung der Auffassung anzuschliessen, die Deutschland, Italien und, wie ich voraussetze, auch Russland mit uns theilen. Ebenso lässt sich erwarten, dass das Cabinet

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von St. James gegen die Wahl von Konstantinopel als Sitz der Commission keine besonderen Einwendungen erheben dürfte. || Frankreichs Auffassung allein birgt eine principielle Differenz von der unserigen in sich; es erhebt die Forderung, dass die Pforte vor Allem sich souverän über die Interpretation des Ausdrucks "tonneau de capacité" ausspreche, was im Wesentlichen der Entscheidung gleichkommt, ob die Suezkanal-Gesellschaft in der schwebenden Streitfrage Recht hat oder nicht. Eine solche Entscheidung könnte aber die Berathungen und Beschlüsse der internationalen Commission leicht empfindlich präjudiciren und würde die Absichten der Pforte selbst insofern vereiteln, als diese in ihrer Einladung den grossen Werth betont hat, den sie, vor der Entscheidung über die Frage, auf das Urtheil von Fachmännern in dieser Angelegenheit zu legen gesonnen ist. || Indem ich versucht habe, in der vorangehenden Exposition zu präcisiren, auf welchem Standpunkte wir in dieser Frage stehen und wie sich die betheiligten Cabinete dazu verhalten, lade ich Euer Hochgeboren ein, nach Kräften dahin zu wirken, dass auch die Pforte rückhaltlos unserer Auffassung beitrete, in diesem Sinne sofort ein bestimmtes Programm für die Verhandlungen aufstelle und nunmehr förmlich zur Beschickung der internationalen Commission unter Kundmachung des Zeitpunkts ihres Zusammentritts in Konstantinopel die Einladungen an die Mächte erlasse. || Gleichzeitig veranlasse ich die Mittheilung dieses Erlasses an unsere Vertreter an den Höfen von Berlin, Petersburg, Rom und London und ersuche sie, bei den Regierungen, bei denen sie beglaubigt sind, sich dahin zu verwenden, dass die Gesandten dieser Mächte in Konstantinopel angewiesen werden, ihre Bemühungen mit den unserigen zu vereinigen, um die Pforte zu einem entschiedenen Vorgehen in dieser Angelegenheit zu bestimmen. || Empfangen etc.

Andrássy.

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OESTERREICH-UNGARN. — Min. d. Ausw. an den k. u. k. Gesandten in Konstantinopel. — Weitere Instruktion.

Wien, den 24. April 1873.

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Zur Stunde liegen mir zwar noch keine detaillirten Berichte über die Aufnahme vor, die unsere in dem Rescripte vom 10. d. M. auseinandergesetzten Vorschläge, betreffs des sofortigen Zusammentritts der internationalen Commission in Konstantinopel zur Berathung und Entscheidung der Schiffsvermessungsfrage und der Angelegenheit der Suezkanal-Gebühren, bei den betheiligten Regierungen gefunden haben. Doch lassen sich einige Symptome in dieser Beziehung constatiren, die ich mich beeile Euer Hochgeboren

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mitzutheilen, weil mir deren Kenntniss geeignet erscheint, Sie in den Verhandlungen zu unterstützen, die Sie in Folge meiner Weisung vom 10. d. M. eingeleitet haben werden und worüber ich mit Interesse Ihrer Berichterstattung entgegensehe. || Aus London berichtet Graf Beust, dass England über das für die Commission aufzustellende Programm wesentlich unserer Auffassung beigetreten ist, die auch Deutschland und Italien vollständig theilen. || Das russische Cabinet scheint sich in der letzten Zeit hingegen mehr die französische Auffassung angeeignet zu haben, die darauf hinausgeht, die Pforte solle zuerst souverän über die Interpretation des Ausdruckes "tonneau de capacité" entscheiden, und diese Entscheidung habe eventuell den Berathungen der Commission als Grundlage zu dienen. Da wir der Ansicht sind, dass hiedurch die Entscheidung dieser Angelegenheit sehr weit hinausgeschoben werden dürfte, so geben wir uns der Hoffnung hin, dass die Pforte sich so schnell als möglich zur Einberufung der Commission in dem Sinne des Programms entschliesst, dessen Grundzüge in meiner Weisung vom 10. d. M. ausführlich entwickelt und begründet sind. || Es könnte sich im Laufe der Verhandlungen herausstellen, dass der englische Vorschlag, dem auch Euer Hochgeboren und Italien sich angeschlossen haben, nämlich die Pforte sofort zur Einstellung der gegenwärtigen Gebühreneinhebung auf dem Kanale und zur Wiederherstellung des status quo vor dem 1. Juli 1872 zu bewegen, ein Hinderniss zur Durchführung unserer Propositionen bildet. Da wir entschieden nichts als eine baldige Beilegung aller entstandenen Differenzen anstreben, so können wir nicht wünschen, uns selbst unnöthige Schwierigkeiten zu schaffen, und deshalb bin ich nicht abgeneigt, auf der Forderung nicht weiter zu bestehen, dass die Pforte jetzt schon Befehle erlasse, die illegale Einhebung der Gebühren auf dem Kanale einzustellen. Nachdem wir einerseits diese Gebühren stets nur unter Protest gezahlt haben und den Rechtsstandpunkt nicht aufgeben, dass die Compagnie zur Aenderung der Gebühreneinhebung seit dem 1. Juli 1872 nicht berechtigt war, und da wir andererseits zugleich bereit sind, der Compagnie jede billige Berücksichtigung ihrer materiellen Interessen zuzugestehen, drängt sich uns die Ueberzeugung auf, dass keine wesentlichen Gründe vorliegen, die uns bestimmen könnten, starr auf dem von England eingenommenen Standpunkte auf die Gefahr hin zu beharren, dadurch unseren Hauptzweck möglicher Weise zu vereiteln oder dessen Erreichung wenigstens wesentlich zu erschweren. || Ich ersuche Euer Hochgeboren, diese Auffassung sich vor Augen zu halten, in dieser Richtung mit Nachdruck bei der Pforte die schwebenden Verhandlungen fortzuführen, und auf der baldigen Einberufung der internationalen Commission stets unter der ausdrücklichen Bedingung zu bestehen, dass die Pforte unter Einbeziehung der Kanalgebührenfrage das von uns angedeutete Programm sofort unverändert acceptire. Das englische Cabinet wird gleichzeitig durch unsern Botschafter von dieser Auffassung vertraulich in Kenntniss gesetzt werden, und wir glauben, dass wir uns auch über diesen Punkt ebenso verständigen werden,

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wie wir die Hoffnung noch nicht vollständig aufgeben, dass unter solchen Modalitäten nachträglich auch Russland sich noch unserer Anschauungsweise anschliessen wird. || Empfangen u. s. w.

Andrássy.

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OESTERREICH-UNGARN. — Gesandter in Konstantinopel an den k. u. k. Min. d. Ausw. — Bericht über den Zusammentritt der türkischen Commission.

Konstantinopel, den 5. Mai 1873.

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Ich komme soeben von der Pforte zurück, wo mir Safvet Pascha mittheilte, dass morgen die erste Sitzung einer aus türkischen Ministern und Fachmännern gebildeten Commission stattfinden werde, welche sich über folgende zwei Fragen auszusprechen hat: || 1. War Herr von Lesseps berechtigt, den Tarif vom 4. März 1872 eigenmächtig einzuführen? || 2. Wie ist der im Firman von 1856 gebrauchte Ausdruck "tonneau de capacité" zu verstehen? || Als mir Safvet Pascha diese Mittheilung machte, welche die Annahme der Forderung Frankreichs implicirt, erklärte ich ihm, dass wir nur um so entschiedener auf der sofortigen Berufung der internationalen Commission und darauf bestehen müssten, dass es derselben vorbehalten bleibe nach Maassgabe der theoretischen Interpretirung, welche man dem Ausdrucke "tonneau de capacité" in obiger Commission geben würde, die praktische Anwendung derselben betreffs der künftigen Erhebung der Gebühren am Suez-Kanale festzustellen. || Safvet nahm über mein Verlangen schriftlich davon Notiz, und ich werde mich noch heute Abends zu dem englischen Botschafter begeben, um mich mit ihm über unser weiteres gemeinschaftliches Handeln zu verständigen. || Genehmigen u. s. w.

Ludolf.

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OESTERREICH-UNGARN. — Gesandter in Konstantinopel an den k. u. k. Min. d. Ausw. — Bericht über die Beschlüsse der türkischen Commission.

Konstantinopel, den 24. Mai 1873.

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Laut mir zugekommener Mittheilungen wäre man in der ottomanischen Commission, welcher die Interpretirung des den Suezkanal betreffenden Firmans obliegt, über folgende Principe einig: || 1. dass Lesseps nicht berechtigt

war, den neuen Behebungsmodus vom 4. März 1872 ohne vorläufige Ermächtigung der Pforte einzuführen; || 2. dass dieser Erhebungsmodus selbst ein willkürlicher sei, weil er sich auf eine Messung des Tonnengehaltes stützt, welche weder mit der englischen, noch einer sonst üblichen Aichungsart im Einklange steht; || 3. dass Herr von Lesseps eigentlich nur berechtigt wäre, den registrirten Tonnengehalt der Schiffe zur Grundlage der Gebührenerhebung zu nehmen, dass aber hinwieder unleugbar der in den Schiffspapieren ausgewiesene Netto-Tonnengehalt mit der wirklichen Tragfähigkeit der Schiffe in keinem richtigen Verhältnisse stehe und es daher der internationalen Commission zur Aufgabe zu machen sei, diesem Uebelstande durch Vereinbarung eines Aichungsmodus abzuhelfen, welcher den wirklich benutzbaren Raum der Schiffe in einer der Wahrheit entsprechenden Weise erkennbar mache; und || 4. dass die Gesellschaft aufzufordern sei, sofort, und bis zur endgiltigen Regelung der Frage, zu der vor dem 1. Juli 1872 in Wirksamkeit gestandenen Gebührenerhebung zurückzukehren. || Ueber alle diese Punkte herrscht zwischen den Commissionsmitgliedern keine Meinungsverschiedenheit; nur sucht noch ein Theil derselben eine Form, um wo möglich die Suez-Gesellschaft der Verpflichtung zu entbinden, die seit dem 1. Juli 1872 behobenen Mehrgebühren zurückzustellen, weil man sonst den Bankerott der Compagnie oder wenigstens Complicationen befürchte, welche auch der ottomanischen Regierung Verlegenheiten bereiten könnten. || Genehmigen u. s. w.

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OESTERREICH-UNGARN. — Min. d. Ausw. an den königl. grossbrit. Botschafter in Wien (Sir A. Buchanan). — Widerlegung der englischen Anschauungen.

Wien, den 12. Juni 1873.

Ich habe die Ehre, den Empfang der geschätzten Note vom 31. Mai d. J. in Betreff der internationalen Commission zur Feststellung einer gleichförmigen Schiffsvermessung zu bestätigen. In dieser Zuschrift hatten Sie die Güte, hervorzuheben, dass Sir H. Elliot in Konstantinopel sich dem vom Grafen Ludolf gestellten Antrage der Einberufung einer internationalen Commission, die zugleich mit der Angelegenheit der Schiffsvermessungsmethode die Suezkanal-Gebührenfrage zum Austrage zu bringen berufen sein sollte, nicht angeschlossen hat. Den Botschafter Ihrer Majestät bestimmte zu dieser Haltung wesentlich der Umstand, dass er annehmen zu können glaubt, die in jüngster Zeit eingesetzte ottomanische Commission werde betreffs der Suezkanal-Frage ein der gegenwärtigen Gebühreneinhebung widersprechendes, mit unserer ge-

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meinschaftlichen Auffassung also übereinstimmendes Urtheil abgeben. Auch hegt Sir H. Elliot die Ansicht, dass die Pforte zur Einbeziehung der Suezkanal-Frage in das Programm der internationalen Commission ihre Zustimmung nicht ertheilen würde. Er beschränkt sonach das Programm der internationalen Commission lediglich auf die Angelegenheit der Feststellung eines gemeinschaftlichen internationalen Vermessungssystems des Schiffstonnengehalts und ist deshalb der Meinung, dass diese Frage in Konstantinopel nicht mit Erfolg in Verhandlung gezogen werden könnte; Lord Granville, indem er sich dieser Auffassung des Botschafters Ihrer britischen Majestät in Konstantinopel anzuschliessen scheint, wünscht unsere Ansichten darüber kennen zu lernen, ob nicht London für den Zusammentritt dieser Commission sich am besten eignen würde. ‖ Ich erlaube mir vor Allem, Herr Botschafter, Ihnen für Ihre gefälligen Eröffnungen meinen verbindlichsten Dank auszusprechen. Eine klare Auseinandersetzung der beiderseitigen Auffassungen kann in einer Frage, betreffs welcher im Grunde zwischen dem Cabinet von St. James und uns keine Verschiedenheit obwaltet, nur zu einer innigen Verständigung bezüglich der Haltung dienen, die wir gemeinschaftlich einnehmen müssen, um zu einer vollkommen befriedigenden Lösung dieser Frage zu gelangen. ‖ Als wir die Einladung der hohen Pforte zur Beschickung der in Frage stehenden internationalen Commission empfingen, erblickten wir von allem Anfange an darin ein geeignetes Mittel zur Beseitigung aller in der Suezkanal-Frage seit einem Jahre aufgetauchten Schwierigkeiten. Wir gingen von der Ueberzeugung aus, dass die hohe Pforte diese Einladung auch nur in der Absicht erlassen habe, um auf diesem Wege die vorhandenen Differenzen zu lösen. Wir notificirten sonach die Annahme dieser Einladung unsererseits unter der ausgesprochenen Voraussetzung, dass die Frage der Einhebung der Kanalgebühren einen integrirenden Bestandtheil des Programms der internationalen Commission bilden würde. Diese Auffassung theilen mit uns auch mehrere befreundete Cabinete, denen es ebenso, wie uns, daran gelegen ist, die Interessen der Schifffahrt auf dem Suezkanale durch ein internationales Uebereinkommen in dauerhafter Weise gegen jede willkürliche Belastung und Abänderung der festgesetzten Normen zu schützen, ohne den billigen Ansprüchen der Compagnie entgegenzutreten. ‖ Das Cabinet von St. James ist mit uns einverstanden, dass die Berechtigung zur Einsprache gegen Willkürakte der Suezkanal-Gesellschaft uns ebensowenig bestritten werden kann, als wir auch den Anspruch erheben dürfen, an den Verhandlungen, die Regelung dieser Frage betreffend, theilzunehmen. Wir glauben zugleich annehmen zu können, dass die Pforte ihre Zustimmung nicht verweigern würde, sobald wenigstens die Majorität der betheiligten Regierungen die gleiche Ansicht vertritt. Den Hoheitsrechten der Pforte würden wir in dieser Weise keineswegs nahe treten. Zahlreiche Präcedenzfälle liefern den Beweis, dass ähnliche Fragen schon öfters in Konstantinopel in gleicher Weise verhandelt und zu einem günstigen Abschlusse gebracht worden sind. Die internationale Commission in Konstantinopel hätte

nach unserer Auffassung, die Frage der Gebühreneinhebung am Suezkanale in Uebereinstimmung mit den Principien, die für die Schiffsvermessung im Allgemeinen angenommen werden, nach allen Richtungen eingehend zu prüfen und die nöthigen Normen darüber zu vereinbaren, die sodann der Sanction Seiner Majestät des Sultans zu unterbreiten wären. In der Commission würde betreffs dieser Frage auch den berechtigten Ansprüchen Aegyptens und der Kanalgesellschaft vollkommen Rechnung getragen werden können. Wie sehr wir auch einerseits darauf bestehen zu sollen glauben, dass das seit dem 1. Juli 1872 von der Compagnie willkürlich eingeführte Schiffsvermessungssystem vollständig beseitigt und das frühere korrekte Verfahren wiedereingeführt werde, eben so sehr sind wir andererseits bereit, schon jetzt allen billigen Rücksichten für die Kanalgesellschaft Rechnung zu tragen, und wir wären nicht abgeneigt, einer provisorischen Erhöhung der Taxe bis 12 Francs per Tonne zuzustimmen, sobald das vor dem 1. Juli 1872 bestandene Vermessungsverfahren wiedereingeführt sein wird. Diese provisorische Erhöhung der Taxe hätte für so lange ihre Giltigkeit, bis die durch die internationale Commission festzustellenden Gebühren und Reglements in Wirksamkeit treten. || Wir stehen heute mit dieser Auffassung noch ebenso da, wie vor dem Zusammentritte der türkischen Commission, die sich gegenwärtig mit dieser Frage befasst. Sollten die Beschlüsse dieser Commission mit unseren Ansichten übereinstimmen und sollten sie nach erlangter Sanction von Seite der hohen Pforte ohne Widerspruch angenommen werden und unverweilt zur Ausführung gelangen, so würde nach Beseitigung aller Differenzen in der Suezkanalfrage allerdings die Nothwendigkeit entfallen, diesen Gegenstand in das Programm der einzuberufenden internationalen Commission einzubeziehen. Dieser letzteren Commission bliebe alsdann lediglich die Frage eines gleichförmigen Schiffsvermessungs-Systems vorbehalten, und in einem solchen Falle würden wir uns gerne der Ansicht Lord Granville's anschliessen, dass London für den Zusammentritt dieser Commission sich am besten eignen würde. || Wir besorgen jedoch, dass durch die Verhandlungen der jetzt in Konstantinopel tagenden türkischen Commission die verschiedenen, auf die Suezkanal-Frage bezüglichen Angelegenheiten nicht zu einem allseitig befriedigenden Abschlusse gebracht werden und dass sonach die Nothwendigkeit nicht entfällt, in Konstantinopel nach wie vor auf dem Zusammentritte der internationalen Commission mit dem auch diese Angelegenheit umfassenden Programme zu bestehen. Acceptirt man dieses Programm, dann wird uns Lord Granville gewiss gerne zustimmen, dass in einem solchen Falle die internationale Commission die Lösung der ihr zugewiesenen Aufgabe nur in Konstantinopel mit Aussicht auf Erfolg und eine allseitige Verständigung in die Hand nehmen könnte. || Ich würde mich glücklich schätzen, mich in der Auffassung dieser Frage mit Lord Granville zu begegnen und durch die Weisungen, die er an Sir H. Elliot zu erlassen in der Lage sein wird, eine vollständige Uebereinstimmung mit den Instruktionen hergestellt zu sehen, die ich dem Grafen

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Ludolf ertheilt habe. Eine solche Uebereinstimmung würde wesentlich dazu beitragen, den allseitig erhofften Erfolg der Beseitigung aller in der Suezkanal-Frage aufgetauchten Schwierigkeiten sicherzustellen. || Indem ich Sie bitte, Herr Botschafter, von unseren Anschauungen Ihrer Regierung Kenntniss zu geben, benutze ich diesen Anlass, um Ihnen, Herr Botschafter, die Versicherung meiner ausgezeichnetsten Hochachtung zu erneuern.

Andrássy.

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OESTERREICH-UNGARN. — Gesandter in Konstantinopel an den k. u. k. Min. d. Ausw. — Entscheidung des türkischen Ministerrathes in der Tariffrage.

Konstantinopel, den 16. Juni 1873.

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Ich erfuhr von Raschid Pascha heute, dass der Ministerrath in der Suez-Frage nunmehr definitiv zu einem Beschlusse gelangt und der bezügliche Vortrag an den Sultan in der Ausfertigung begriffen ist. || Den Mittheilungen des Herrn Ministers des Aeussern zufolge erklärt die Pforte, dass der Ausdruck "tonneau de capacité" des Firmans vom Jahre 1856 als "espace utilisable" zu verstehen sei. Weil jedoch in Bezug dessen, was als "espace utilisable" eines Fahrzeuges anzusehen sei, bisher noch kein allgemein giltiges System bestehe, so werde die internationale Commission eingeladen werden, über diese Frage zu einer Entscheidung zu gelangen. Inzwischen aber und weil das System Moorsom bisher die weiteste Verbreitung gefunden und auch für die Türkei Giltigkeit erlangt hat, wird die Suez-Gesellschaft aufgefordert, selbes vorläufig als Grundlage für die Einhebung der Kanalgebühren anzunehmen. Der Punkt aber, ob Herr von Lesseps berechtigt war, den Tarif vom 4. März 1872 selbstständig einzuführen, wird mit Stillschweigen übergangen. || Auf meine Frage, was die Pforte zu thun gedenke, falls Herr von Lesseps sich weigern sollte, bis zur Entscheidung der Angelegenheit durch die internationale Commission zur Einhebungsart auf Grund des englischen Tonnenmaasses zurückzukehren, meinte Raschid, man würde es dem Khediv überlassen, mit Herrn von Lesseps darüber in das Reine zu gelangen; jedenfalls aber würde letzterer für eine solche Auflehnung verantwortlich zu machen sein. || Was den Versammlungsort der internationalen Commission anbelangt, so glaubt Raschid Pascha auf die Rücksicht der Mächte rechnen zu können, dass man Konstantinopel dazu ausersehen werde. || Genehmigen u. s. w.

Ludolf.

Nr. 5161.

OESTERREICH - UNGARN. — Gesandter in Konstantinopel an den k. u. k. Min. d. Ausw. — Weiterer Bericht über die Entscheidung der Pforte.

Konstantinopel, den 23. Juni 1873.

Nr. 5161. Oesterreich-Ungarn. 23. Juni 1873

Soeben kehrt Herr von Webenau von der Pforte zurück und berichtet mir, dass gestern noch ein Ministerrath bezüglich der Suezfrage abgehalten wurde, um den Text eines Briefes an den Khediv festzustellen, worin nach einer kurzen Einleitung die zwei Punkte des Artikels 17 des Concessions-Firmans vom Jahre 1856 citirt werden, in denen es heisst, dass die Gesellschaft ermächtigt sei: "de percevoir les droits, sans aucune exception ni faveur, sur tous les navires dans des conditions identiques et de ne pas excéder, pour le droit spécial de navigation, le chiffre maximum de 10 francs par tonneau de capacité des navires et par tête de passager." Darauf fährt das Schreiben wörtlich also fort:

"En se servant dans l'article susmentionné de l'expression de tonneau de capacité, le Gouvernement Impérial a entendu parler de tonneau de capacité dans un sens absolu. Il n'a eu nullement en vue le tonnage inscrit sur les papiers de bord. En effet, les navires de tout pavillon devant être soumis à leur traversée du canal à une taxe égale et les différents Gouvernements n'ayant encore adopté aucun système de tonnage parfaitement exact, le Gouvernement ottoman s'était vu dans la nécessité de faire usage de l'expression de tonneau de capacité en général, de telle manière que cette expression pût s'appliquer au tonneau qui serait plus tard adopté par tous les Gouvernements et notamment par le Gouvernement ottoman pour sa marine. D'après cela il serait naturel que M. de Lesseps aussi bien que les différentes marines adoptassent aujourd'hui le tonnage, qui donnerait avec la plus grande approximation la capacité absolue. Or parmi tous ceux actuellement en usage le système Moorsom étant celui qui en approche le plus, la Sublime Porte est d'avis que pour le moment on doit s'en tenir au système susmentionné. Dans le cas où M. de Lesseps ainsi que les Puissances maritimes ne désireraient pas persister dans ce système, il deviendrait indispensable de convoquer une commission mixte à l'effet de déterminer la capacité absolue. || Le Gouvernement Impérial pense en effet qu'on reconnaîtra aisément, qu'il ne pourrait pas définir d'une façon absolue l'expression tonneau de capacité, tant que les différents Gouvernements n'étaient pas tombés d'accord sur l'établissement d'un tonnage absolu."

Es wäre von hoher Wichtigkeit, zunächst darüber ins Klare zu kommen, ob die Pforte mit der Phrase: "La Porte est d'avis que pour le moment on doit s'en tenir au système Moorsom", gemeint habe Herrn von Lesseps zu

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verpflichten, die Gebühr vom Netto-Tonnengehalte einzuheben, weil die Suez-Compagnie auch jetzt schon das System Moorsom zur Grundlage ihrer Taxirung, aber freilich nach dem Brutto-Tonnengehalte, angenommen hat. || Genehmigen u. s. w.

Ludolf.

Nr. 5162.

OESTERREICH-UNGARN. — Min. d. Ausw. an die k. und k. Missionen in London, Paris, Rom, Berlin und St. Petersburg. — Kritik der Entscheidung der Pforte.

Wien, den 7. Juli 1873.

Nr. 5162. Oesterreich-Ungarn. 7. Juli 1873

Ich hatte die Ehre, unter dem 21. Juni d. J. Euer Excellenz die Entscheidung mitzutheilen, die nach den Berichten unseres Gesandten in Konstantinopel von der Pforte in der Suezkanal-Frage getroffen worden sein soll. Inzwischen sind vom Grafen Ludolf neuere Berichte eingelangt, aus denen hervorgeht, die Pforte beabsichtige ihre Entscheidung durch ein Schreiben an den Khediv kundzugeben, dessen wesentlicher Inhalt in den folgenden Stellen zusammengefasst ist: || "En se servant etc." || Wir könnten in der vorliegenden Textirung den getreuen Ausdruck jener Entscheidung nicht erblicken, die wir nach den früher uns zugekommenen Andeutungen erwartet hatten, und die unseren Ansprüchen zu genügen schien. Der vorliegende Text ist zu unbestimmt, lässt jede Auslegung berechtigt erscheinen und befriedigt dadurch Niemanden. Graf Ludolf hat auch sofort die Aufmerksamkeit des türkischen Ministers des Aeussern auf diesen Umstand gelenkt und vorgeschlagen, dass an jener Stelle, wo von der Anwendung des Moorsom'schen Vermessungssystems die Rede ist, präcis bestimmt werde, dass bis zur Austragung der Frage, nach welchem System der Tonnengehalt eines Schiffs zur Grundlage der Berechnung der zu entrichtenden Schifffahrtsgebühren dienen soll, die englische Registertonne als solche Grundlage zu betrachten sei, wie dies bis zum 1. Juli 1872 thatsächlich der Fall war. Ebenso proponirte Graf Ludolf, dass statt der Bezeichnung "Commission mixte" der Ausdruck "Commission internationale" gebraucht werde, wie es auch in dem gleichen Absatze statt "où Mr. de Lesseps ainsi que les Gouvernements" richtiger heissen soll "Lesseps ou les Gouvernements", da man doch die Absichten der Seemächte füglich nicht von der Auffassung des Herrn v. Lesseps abhängig machen kann. Raschid Pascha soll sich mit diesen Bemerkungen vollkommen einverstanden erklärt und versprochen haben, an dem Entwurfe des Schreibens an den Khediv die entsprechenden Abänderungen veranlassen zu wollen. || Obwohl die von der Pforte verfügte Lösung kaum befriedigend erscheint, glauben wir doch, dass vor Allem der Erfolg des an den Khediv gerichteten Erlasses ab-

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zuwarten sei. Enthält der in Frage stehende Erlass die klare Bestimmung, dass vorläufig die Suezkanal-Compagnie die Gebühren auf dem Suezkanale nach der englischen Registertonne und in der Weise, wie dies bis zum 1. Juli 1872 der Fall war, einzuheben habe, und fügt sich die Compagnie dieser Bestimmung, dann erscheint die ganze Frage in das richtige Fahrwasser geleitet. Und erhebt alsdann, sei es eine der betheiligten Regierungen oder aber Herr v. Lesseps die Forderung, es seien Verhandlungen einzuleiten, um auf Grundlage eines neu festzustellenden Vermessungssystems jenen Tonnengehalt zu bestimmen, der als effectiv benutzbarer Raum eines Schiffes gegenüber seinem Brutto-Tonnengehalte mit der Gebühr von 10 Francs belegt werden darf, dann muss die Frage einer internationalen Commission zur Entscheidung vorgelegt werden. Diesen Fall hatte ich im Auge, als ich in meiner Note vom 12. Juni d. an Sir A. Buchanan mich dahin aussprach, dass wir unter diesen Umständen auch gegen den Zusammentritt der internationalen Commission in London nach dem Vorschlage Lord Granville's keinerlei Einwendung erheben würden. || In derselben Note habe ich jedoch ebenso, wie in meiner Depesche vom 21. Juni d., auch die Eventualität ins Auge gefasst, dass die Entscheidung der Pforte aus irgend einem Grunde nicht zur Ausführung gelange und die Suezkanal-Compagnie nach wie vor darauf bestehe und fortfahre, die Gebühren nach dem "gros tonnage" einzuheben. Für diesen Fall bin ich nach wie vor der gleichen Ansicht, der Zusammentritt einer internationalen Commission in Konstantinopel sei mit allen Mitteln zu beschleunigen, und die vereinten Bemühungen der betheiligten Mächte seien dahin zu richten, dass dieselbe ausser der theoretischen Aufgabe der Feststellung eines allgemein giltigen Schiffsvermessungs-Systems auch die Regelung aller auf die Gebühreneinhebung am Suezkanale bezüglichen und seit dem 1. Juli 1872 entstandenen Schwierigkeiten und Differenzen in ihr Programm aufzunehmen hätte. Nachdem die Pforte selbst in dem Entwurfe ihres Schreibens an den Khediv diese Fragen mit einander in Verbindung bringt, dürfte nun auch jede formelle Einwendung gegen die Erweiterung des Programms nach der angedeuteten Richtung entfallen. || In diesem Sinne sind die Instruktionen verfasst, die unser Gesandter in Konstantinopel sich als Richtschnur vor Augen zu halten und nach denen er in Uebereinstimmung mit seinen Collegen jener befreundeten Mächte vorzugehen hat, die sich unserer Auffassung in dieser Frage angeschlossen haben. || Euer Excellenz werden eingeladen, unsere Auffassung der gegenwärtigen Sachlage der Suezkanal-Frage in geeigneter Weise zur Kenntniss des Cabinets zu bringen, bei dem Sie die Ehre haben beglaubigt zu sein. || Empfangen u. s. w.

Andrássy.

Nr. 5163.

OESTERREICH-UNGARN. — Gesandter in Konstantinopel an den k. u. k. Min. d. Ausw. — Mittheilung des Schreibens der Pforte an den Khediv über die Tariffrage.

Bujukdere, den 12. Juli 1873.

Nr. 5163. Oesterreich-Ungarn. 12. Juli 1873.

Ich beehre mich, Euer Excellenz im Anbuge den vollinhaltlichen Text des Schreibens des Gross-Vesirs an den Khediv zu unterbreiten, womit diesem die von Seiner Majestät dem Sultan sanctionirte Ansicht der Pforte über die Bedeutung des Ausdrucks *"tonneau de capacité"* und über die Art der schliesslichen Begleichung der Suez-Frage bekanntgegeben wird. ‖ Der wesentliche Inhalt dieses Schreibens ist Euer Excellenz aus meiner früheren Berichterstattung über den Gegenstand bereits bekannt, und Hochdieselben haben sich von allem Anfange an über den geringen praktischen Werth dieser Aeusserung nicht getäuscht. Derselbe beschränkt sich auch im Grunde darauf, die endgiltige Entscheidung der Frage der internationalen Commission zu überweisen. Insofern Euer Excellenz aber stets die Meinung vertreten haben, dass eben dieser Commission die definitive Regelung der Suez-Angelegenheit anheimzugeben wäre, dürfte der Pfortenbeschluss trotz seiner sonstigen Schwächen von Hochdenselben dennoch mit einiger Befriedigung aufgenommen werden. ‖ Es erübrigt aber nun die Frage, wie in der Sache weiter vorzugehen sein wird, um das Stadium, in welches die Suez-Angelegenheit dermalen getreten ist, für unsere Interessen möglichst nutzbar zu machen und, sollte sich das Schreiben an den Khediv hiezu als nicht geeignet erweisen, ehestens zur Berufung der internationalen Commission als derjenigen Instanz zu gelangen, welche allein eine definitive und befriedigende Lösung aller Schwierigkeiten erwarten lässt. ‖ Ich habe mich darüber heute mit dem Herrn deutschen Gesandten eingehend besprochen, wozu ein telegraphischer Auftrag seiner Regierung den Anlass gab, welcher Herrn von Eichmann einladet, seine Schritte in der Suez-Frage im engsten Einvernehmen mit den meinigen zu regeln. ‖ Wir kamen überein, unsere Bemühungen vor Allem darauf zu richten, auch die übrigen fremden Vertreter von der Nothwendigkeit einer gemeinschaftlichen Auffassung der Sachlage und einer übereinstimmenden Vorgangsweise zu überzeugen. Bei General Ignatieff, welcher den unseren ähnliche Instruktionen erhalten zu haben scheint, dürfen wir hoffen diesfalls keinen Schwierigkeiten zu begegnen. Bei Sir Henry Elliot aber bleibt noch immer eine gewisse Abneigung gegen die internationale Commission oder wenigstens gegen deren Berufung nach Konstantinopel zu überwinden und ebenso die, wie uns scheint, irrige Auffassung zu berichtigen, als ob es möglich sein würde, auf Grund des Schreibens der Pforte an den Khediv die Suez-Compagnie in gerichtlichem

Wege zur Anerkennung der Verpflichtung zu verhalten, die Kanaltaxe fortan nur auf Grund des Netto-Tonnengehaltes nach dem System Moorsom zu beheben. Der Herr englische Botschafter schmeichelt sich, dies zu erreichen, weil dann die Nothwendigkeit entfiele, dass die Mächte selbst zur internationalen Commission ihre Zuflucht nehmen. || Es wäre dies freilich die einfachste und erwünschteste Lösung; allein bei näherer Betrachtung der Sachlage musste sich sowohl Herrn von Eichmann als mir die Ueberzeugung aufdrängen, dass man auf gerichtlichem Wege nur Verzögerungen, keineswegs aber praktische Erfolge zu gewärtigen habe. || Und zwar fragt es sich zunächst, welche Gerichte zu entscheiden hätten, wenn die Suez-Compagnie trotz des Schreibens der Pforte an den Khedive, wie es nur zu wahrscheinlich ist, fortfahren sollte, die Taxe auf Grund ihres dermaligen illegalen Tarifs zu beheben. || Freilich heisst es in dem Concessions-Firman, dass die Suez-Gesellschaft in allen Streitsachen den localen Gerichten unterstehe. Allein abgesehen davon, dass die localen ägyptischen Tribunale in ihrer dermaligen primitiven Form der Entscheidung solcher Fragen kaum gewachsen sind, wird, wie Euerer Excellenz bekannt, sowohl von Herrn von Lesseps als der französischen Regierung bisher der Grundsatz festgehalten, dass als die einzigen competenten localen Tribunale in Streitsachen gegen die Suez-Gesellschaft die französischen Consulargerichte in Aegypten anzusehen seien. Würde aber auch über diese Ansicht hinausgegangen und die Gesellschaft durch ein ägyptisches Tribunal zur Ersetzung der Mehrgebühren verurtheilt, so erhöbe sich bei der Execution einer solchen Sentenz die weitere Frage, wer selbe vorzunehmen habe, und sicherlich würde dann von französischer Seite diese Execution als ein ausschliessliches Recht der französischen Consular-Organe in Anspruch genommen oder, mit anderen Worten, verweigert werden. || Ich habe übrigens im Vorstehenden die Eventualität einer Entscheidung zu Ungunsten der Gesellschaft in das Auge gefasst. Die Fassung des Pfortenschreibens schliesst aber die Möglichkeit nicht aus, dass die Gerichte auch dahin erkennen könnten, es sei die Verpflichtung der Gesellschaft, die Taxe nach dem Netto-Tonnengehalte einzuheben, in dem Schreiben an den Khedive nicht genügend präcisirt. Herr von Eichmann und ich glauben daher, dass die Vertreter der betheiligten Seemächte zunächst sich dahin verständigen sollten, in einhelliger Weise auf den Khedive zu wirken, damit er bei Bekanntgabe des Pfortenschreibens an die Gesellschaft mit möglichster Bestimmtheit es als seine Auffassung hinstelle, dass sich selbe hinfort auf die Besteuerung des Netto-Tonnengehaltes nach dem System Moorsom zu beschränken habe, und diese Ansicht auch mit dem ganzen Gewichte seines Einflusses unterstütze. || Sollte sich aber die Gesellschaft dennoch weigern, einer solchen Aufforderung Folge zu geben, so wäre der erste Fall des Widerstandes von allen betheiligten Mächten als Grund einer Beschwerde bei der Pforte zu benutzen, bei welcher an sie zunächst das Verlangen zu stellen wäre, den Befehl an die Gesellschaft zur Taxirung der Schiffe nach dem Netto-Tonnen-

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gehalt in bestimmter Weise zu erneuern, oder aber sofort die internationale Commission zu berufen. || Genehmigen u. s. w.

Ludolf.

Beilage.

Copie d'une Note de la Sublime Porte au Khèdive.

L'Art. 17 de l'acte de concession accordé le 5 janvier 1856 par Mohamed Saïd Pacha, Vice-Roi d'Egypte, à Mr. de Lesseps, et confirmé par le firman Impérial du 2 Zilcadé 1282 (19 Mars 1866) porte que la Compagnie du canal est autorisée à établir et percevoir des droits de navigation sous la condition expresse: || 1. de percevoir ces droits sur tous les navires dans des conditions identiques . . . . || 3. de ne pas excéder, pour le droit spécial de navigation, le chiffre maximum de 10 francs par tonneau de capacité de . . . . || En se servant dans l'article susmentionné de l'expression de tonneau de capacité, le Gouvernement Impérial a entendu parler du tonneau de capacité dans un sens absolu; il n'a eu nullèment en vue le tonnage inscrit sur les papiers de bord. || En effet, les navires de tout pavillon devant être soumis, à leur traversée du canal, à une taxe égale et les différents Gouvernements n'ayant encore adopté aucun système de tonnage comme parfaitement exact, le Gouvernement ottoman s'était vu dans la nécessité de faire usage de l'expression de tonneau de capacité en général, de telle manière que cette expression pût s'appliquer au tonneau qui serait plus tard adopté par tous les Gouvernements et notamment par le Gouvernement ottoman pour sa marine. || D'après cela, il serait naturel que M. de Lesseps, aussi bien que les différentes marines, adoptassent aujourd'hui le tonnage qui donnerait avec la plus grande approximation la capacité absolue. || Or, parmi tous ceux actuellement en usage, le système Moorsom étant celui qui donne le tonnage net le plus exactement possible, la Sublime Porte est d'avis que pour le moment on doit s'en tenir au système susmentionné. || Dans le cas où M. de Lesseps ou les Puissances maritimes ne désireraient pas persister dans ce système, il deviendrait indispensable de convoquer une commission internationale à l'effet de déterminer la capacité absolue. || Le Gouvernement Impérial pense en effet que l'on reconnaîtra aisément qu'il ne peut être à même de déterminer un mode de mesurage définitif, qui n'a pas encore été arrêté par les autres Gouvernements.

Nr. 5164.

OESTERREICH-UNGARN. — Gesandter in Konstantinopel an den k. u. k. Min. d. Ausw. — Mitheilung über die englische Auffassung und über Lesseps' Verhalten.

Bujuk-dere, den 17. Juli 1873.

Nr. 5164. Oesterreich-Ungarn. 17. Juli 1873

Ich habe soeben die Ehre gehabt, Euerer Excellenz Weisung vom 10. l. M. zu erhalten, womit ich ermächtigt werde, der Pforte zu erklären, dass, wofern sie sich bestimmt dafür ausspricht, dass die Gebühren am Suezkanale von nun an ganz in derselben Weise wie bis zum 1. Juli 1872 eingehoben werden sollen, und sich die Suezkanal-Gesellschaft dieser Entscheidung fügt, letztere unsererseits nicht verhalten werden würde, die seit jenem Datum unrechtmässig behobenen Mehrgebühren zu ersetzen. || Da inzwischen das Vezirial-Schreiben an den Khedive bereits festgesetzt wurde, erübrigt dermalen nur, obige Erklärung wo möglich dahin zu verwerthen, den Khedive zu einem energischeren Vorgehen gegen die Gesellschaft zu vermögen und diese gefügiger zu machen, zu der vor dem 1. Juli 1872 üblich gewesenen Gebührenbemessung zurückzukehren. Damit aber eine solche Erklärung ihren vollen Werth erlange und ihre mögliche Wirkung nicht verfehle, wäre es vor Allem nöthig, dass auch England sich derselben anschliesse, weil diese Macht an der Summe der Mehrgebühren in weit überwiegendem Maasse betheiligt ist. || Seit meinem letzten Berichte vom 12. l. M. war ich in dem Falle, auch dem Herrn russischen Botschafter von den darin entwickelten Ansichten Kenntniss zu geben und von ihm die Erwiederung zu erhalten, dass er meinen und Herrn von Eichmann's Auffassungen über den weiter in der Suez-Frage einzuhaltenden Vorgang vollkommen beitrete. || Sir Henry Elliot musste zwar auch als wahrscheinlich zugestehen, dass die schliessliche Austragung der Sache doch nur im Wege der internationalen Commission zu erreichen sein werde; allein er hofft noch immer, dass nicht die Seemächte, sondern Herr von Lesseps genöthigt sein würde, zu derselben die Zuflucht zu nehmen, weil er glaubt, durch den Khedive dahin gelangen zu können, die Gesellschaft auf Grund des Pfortenschreibens schon jetzt zur Anerkennung der Verpflichtung zu verhalten, die Gebühren nur auf Grund des Netto-Tonnengehaltes nach dem System Moorsom zu erheben. || Sir Henry Elliot theilte mir die Abschrift einer von Lord Granville jüngst an Sir A. Buchanan in Wien gerichteten Depesche mit, welche, wenn auch nicht direct, so doch durch Hervorhebung der vielseitigen Schwierigkeiten, mit welchen die internationale Commission zu kämpfen haben wird, deren Vereinigung in London erneut das Wort redet. || Aus den soeben telegraphisch hier bekannt gewordenen Ergebnissen der jüngst zu Paris abgehaltenen Generalversammlung der Actionäre des Suezkanales scheinen mir drei Punkte eine nähere Betrachtung zu verdienen, und

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zwar: || 1. dass das Mehrerträgniss der Einnahmen in Folge des erhöhten Tarifs vom 1. Juli 1872 bis 1. Juli 1873 sich auf 50% über dasjenige des Vorjahres belief. Diese, wenn auch bedeutende Erhöhung kann aber mit Recht als ein ungünstiges Ergebniss bezeichnet werden; denn da die Taxerhöhung allein 50% betrug, so muss angenommen werden, dass die Zahl der Schiffe im Vergleiche zum Vorjahre, seit der Einführung des neuen Tarifs, dieselbe blieb, während sich in früheren Jahren eine stätige bedeutende Progression in der Ziffer der passirenden Schiffe bemerklich gemacht hatte; || 2. dass Herr von Lesseps es doch nicht gewagt hat, seine Drohung, die unter Protest entrichteten Gebühren sofort unter die Actionäre zu vertheilen, in Ausführung zu bringen, sondern, dass er die eingenommenen 2½ Millionen Francs in Depot behielt und nun erklärt, sie so lange aufbewahren zu wollen, bis die Summe von 5 Millionen erreicht sein wird, und || 3. dass die Unterhaltungskosten des Kanales im Vorjahre sich auf 800,000 Francs, also auf eine verhältnissmässig geringe Summe, beliefen. || Genehmigen u. s. w.

Ludolf.

Nr. 5165.

OESTERREICH-UNGARN. — Botschafter in London (Graf Beust) an den k. u. k. Min. d. Ausw. — Englische Auffassung.

London, den 18. Juli 1873.

Nr. 5165. Oesterreich-Ungarn. 18. Juli 1873.

Nach den hier vorliegenden Nachrichten wurde die Pfortennote, entsprechend den Elliot'schen Amendements, an den Khedive befördert und, da hienach das "registered tonnage" und damit der status quo ante 1. Juli 1872 bis auf Weiteres, das heisst bis zu einer entgegengesetzten Entscheidung der internationalen Commission, hergestellt wird, so ist die englische Regierung weniger als je der Meinung, dass der internationalen Commission eine andere, als die ihr von der Pforte ursprünglich bestimmte Mission, zugewiesen werde. || Sie geht zugleich von der Ansicht aus, dass, wenn der Khedive der Entscheidung der Pforte, wie solche in ganz erwünschter Weise vorliege, nicht Achtung und Ausführung zu verschaffen wissen sollte, genau das Gleiche bei einer Entscheidung der internationalen Commission zu besorgen sein würde. Dagegen würde ein Einberufen der internationalen Commission mit dem diesseits vorgeschlagenen Programm dem Khedive die Möglichkeit bieten, die Ausführung des Pfortenbeschlusses auszusetzen, während es unser Interesse sei, an dieser Entscheidung und deren alsbaldiger Anwendung festzuhalten. || Genehmigen u. s. w.

Beust.

Nr. 5166.

OESTERREICH-UNGARN. — Botschafter in London an den k. u. k. Min. d. Ausw. — England schliesst sich der österreichischen Auffassung an. — Telegramm.

Londres, le 1 août 1873.

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Je suis heureux de mander à Votre Excellence que Lord Granville a modifié sa manière de voir et s'associe à nous pour proposer que la question n'étant pas suffisamment résolue par décision turque, soit déférée à la Commission internationale. Le "Board of Trade" a encore à se prononcer.

Beust.

Nr. 5167.

OESTERREICH-UNGARN. — Gesandter in Konstantinopel an den k. u. k. Min. d. Ausw. — Gemeinsame Schritte der Gesandten in Konstantinopel.

Bujuk-dere, den 1. August 1873.

Nr. 5167. Oesterreich-Ungarn. 1. Aug. 1873.

Seit meinem letzten gehorsamsten Berichte vom 24. v. M. war die Suez-Frage Gegenstand lebhafter Verhandlungen zwischen der Pforte und den fremden Vertretern. || Aus den Unterredungen, die ich über diese Frage mit den Repräsentanten Deutschlands, Englands, Italiens und Nordamerika's hatte, ging für uns Alle die Ueberzeugung hervor, dass das zweite Schreiben der Pforte an den Khedive, welches in Abschrift meinem obcitirten Berichte beiliegt, keinen genügenden Anhaltspunkt liefert, um die Suez-Gesellschaft verantwortlich machen zu können, falls sie auch fernerhin bei ihrer dermaligen Einhebungsweise der Gebühren beharren sollte. || Wir kamen daher überein, am Montag, den 28. des v.M., wo Raschid wieder zugänglich war, ihm unsere Besorgnisse nochmals vorzutragen und zu verlangen, dass die Suez-Gesellschaft in unzweideutiger und bestimmter Weise aufgefordert werde, die Kanalgebühren künftighin nur auf Grund des Netto-Tonnengehaltes nach dem System Moorsom zu erheben, und dass sie für jede Ueberschreitung dieser Basis verantwortlich erklärt werde. || Ich sprach mich in dieser Weise sowohl Raschid als dem Grossvezier gegenüber nachdrücklich aus und erhielt von Beiden die Zusicherung, man werde noch am selben Tage unser Verlangen dem Ministerrathe vorlegen, das von uns beanstandete Schreiben an den Khedive zurückzuziehen, und es durch ein unseren Forderungen entsprechenderes ersetzen. || In der That liess mir Raschid Pascha Tags darauf, d. i. am 29., sagen, der

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Ministerrath habe beschlossen, an den Khedive eine neue Einladung zu richten, damit er der Suez-Gesellschaft bestimmt erkläre, dass fortan der Netto-Tonnengehalt nach dem System Moorsom die einzige legale Basis für die Gebühreneinhebung am Kanale sei, und die Gesellschaft auffordere, sich darnach zu halten, falls sie nicht verantwortlich gemacht werden wolle. || Die Abschrift des bezüglichen Schreibens an den Khedive sollte uns Tags darauf von der Pforte mitgetheilt werden. || Mittlerweile hatte der Herr deutsche Gesandte ein Telegramm seiner Regierung erhalten, worin diese, auf eine Verständigung mit Oesterreich-Ungarn und Russland sich berufend, Herrn von Eichmann beauftragte, der Pforte zu erklären, dass die drei Mächte nur dann von der Vergangenheit absehen und auf die Rückforderung der bereits behobenen Mehrgebühren verzichten könnten, wenn die Suez-Gesellschaft verhalten würde, von nun an wieder dem *status quo ante* gemäss vorzugehen und die Gebühren nur auf Grund des, aus den Schiffspapieren hervorgehenden Netto-Tonnengehaltes nach dem System Moorsom zu erheben. || General Ignatiew hatte bisher gezögert, sich unseren Schritten in der Suezfrage anzuschliessen; die obige Erklärung hatte also den grossen Werth, die Pforte zu überzeugen, dass sich nunmehr auch Russland unseren Standpunkt angeeignet hat. || Man war also berechtigt, zu glauben, dass die schliessliche Redaction des neuen Schreibens an den Khedive eine solche sein werde, die unseren Wünschen zu entsprechen geeignet wäre. || Die mir gestern zugestellte und hier gehorsamst beifolgende Uebersetzung dieses Schreibens entspricht aber nur sehr unvollkommen unseren Erwartungen und lässt es noch immer zweifelhaft, ob es genügen werde, um die Suez-Compagnie in die legale Bahn zurückzuführen. Insofern jedoch die Pforte nunmehr ihren früheren Ausspruch über Dasjenige, was am Kanale fernerhin Rechtens sein wird, nicht mehr als ein blosses Avis, sondern auch als eine Décision hinstellt und die Gesellschaft für verantwortlich erklärt, wenn sie sich diesem legalen Beschlusse nicht fügen sollte, ist im Widersetzlichkeitsfalle unseren Capitänen nunmehr doch einige Möglichkeit geboten, die Gesellschaft vor den Gerichten mit gegründeter Aussicht auf Erfolg zu belangen. || Ich kann Euerer Excellenz nur versichern, dass nach den gemachten Anstrengungen und unter den gegebenen Verhältnissen für den Augenblick nicht mehr erzielt werden konnte, als uns die Pforte dermalen bietet. Raschid Pascha versprach übrigens, unsere verschiedenen Noten zu beantworten; in welcher Weise aber dies zu geschehen haben wird, darüber soll erst ein neuer Ministerrath entscheiden. || Genehmigen u. s. w.

Ludolf.

Beilage.

Traduction de la lettre vézirielle adressée à S. A. le Khèdive en date du 6 Djémazi-ul-Akher 1290.

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J'ai eu l'honneur de recevoir la lettre que Votre Altesse a bien voulu m'adresser en date du 22 Djémazi-ul-Ewel, pour demander des éclaircissements relativement à la décision de la Sublime Porte, mentionnée dans ma lettre du 17 du même mois sur le système de tonnage devant servir de base à la perception de la taxe sur les navires traversant le Canal de Suez. || Ainsi que Votre Altesse le sait, la Compagnie s'en était référée à l'avis et à la décision du Gouvernement Impérial, en vue de la solution de cette affaire. L'avis et la décision exposés dans ma susdite lettre étant conformes à l'équité et à la justice, nous avons lieu d'espérer que la Compagnie réglera sa conduite là-dessus. Je prie Votre Altesse de vouloir bien notifier le contenu de cette même lettre à la Compagnie du Canal maritime en la prévenant en même temps qu'elle assumerait la responsabilité des conséquences qui résulteraient de sa conduite, si elle était opposée à l'avis et à la décision justes et légaux de la Sublime Porte.

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OESTERREICH-UNGARN. — Vertreter in Paris (Graf Kuefstein) an den k. u. k. Min. d. Ausw. — Der französische Standpunkt.

Paris, den 15. August 1873.

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Die in Aussicht gestellte Antwort der französischen Regierung, in Betreff der Suezkanal-Frage, ist mir nunmehr zugekommen. || Dieselbe trägt weniger den Charakter einer speciellen Antwort auf unsere Mittheilungen als jenen einer allgemeinen Darlegung der die französische Regierung in dieser Angelegenheit leitenden Ideen und nimmt den Seitens des Grossveziers an den Khedive gerichteten Brief zum Ausgangspunkt, welcher dem Herzog von Broglie mittlerweile in Abschrift zugekommen war. || In den Augen der französischen Regierung ist die Suezkanal-Gesellschaft durch den Ausdruck *"tonneau de capacité"* vollkommen berechtigt, die Schifffahrtsgebühren nach dem vollen benutzbaren Raume des Schiffes zu bemessen. Da nun für die Berechnung dieses Raumes noch keine unbedingt stichhaltige Methode gefunden wurde und besonders auch die früher in Frankreich dafür üblichen Grundsätze, welche eingehender dargelegt werden, sich als unrichtig erwiesen haben, kommt das *promemoria* zu dem Schlusse, dass die Gesellschaft, indem sie das *"gros tonnage"* statt des früheren *"tonnage officiel"* zur Basis der Abgaben wählte, nur in

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dem Falle ihr Recht überschritten habe, wenn wirklich letzteres von dem *"tonnage utile"* sich kaum unterscheide. || Obwohl die hohe Pforte der Ansicht zuzuneigen scheine, dass die englische Methode dem benutzbaren Raume am nächsten komme, halte sie sich von jeder Entscheidung diesfalls fern und sei bereit, die Frage einer internationalen Commission zu unterbreiten. Diese Modalität scheint auch der französischen Regierung die richtigste Lösung der Frage, da ihr der Unterschied zwischen dem *"tonnage officiel"* und dem benutzbaren Raume zu bedeutend vorkommt, als dass jenes auch nur provisorisch als Basis adoptirt werden könnte. || Die von der Pforte gewünschte Commission soll sich nach dem Wunsche der französischen Regierung ausschliesslich mit der Bestimmung der *"capacité utilisable"* zu befassen haben; dadurch werde sie einen grossen Fortschritt für die Vorbereitung eines allgemein giltigen Aichungssystems bilden. || Der Ort der Zusammenkunft ist der französischen Regierung gleichgültig, vorausgesetzt, dass die Commission dort alle Behelfe für ihre Arbeiten vorfinde. Sie wünscht jedoch, dass die Vereinigung sobald als möglich erfolge, da sonst Schwierigkeiten wegen der Behandlung der bis zur Annahme eines definitiven Systems den Suezkanal passirenden Schiffe zu erwarten wären. || Die französische Regierung glaubt nicht, dass die Gesellschaft zu einer Herabminderung ihrer Gebühren verhalten werden könne, und appellirt diesfalls an das Billigkeitsgefühl der Mächte. || Der Herzog von Broglie sprach gegen mich den Wunsch aus, dass diese Ideen die Zustimmung der k. und k. Regierung zu finden so glücklich sein mögen. || Genehmigen etc.

Kuefstein.

Nr. 5169.

TÜRKEI. — Botschafter in Wien (Cabuli Pascha) an den k. u. k. Min. d. Ausw. — Einladung zur internationalen Commission auf den 15. September.

Vienne, le 21 août 1873.

Nr. 5169. Türkei. 21. Aug. 1873.

La décision du Gouvernement de Sa Majesté Impériale le Sultan, relative aux droits du Canal de Suez, prévoit le cas où, par suite d'un défaut d'entente quant à l'application des principes posés par la Sublime Porte, il y aurait lieu d'avoir recours, pour la solution définitive, aux lumières de la Commission internationale. A ce point de vue, cette question vient désormais s'ajouter tout naturellement aux attributions de la Commission dont le Gouvernement ottoman a pris l'initiative de proposer la convocation. || Cette dernière proposition ayant été partout accueillie avec empressement depuis longtemps et Constantinople ayant été presqu'unanimement désigné comme le lieu de sa réunion, il a été décidé qu'elle sera convoquée le 15 septembre pro-

chain, afin de ne pas retarder plus longtemps des travaux dont l'utilité se fait sentir d'une manière si impérieuse. En outre il a été convenu que les Puissances participantes auraient la faculté de s'y faire représenter, à leur convenance, soit par un, soit par deux délégués. || En portant ce qui précède à la connaissance de Mr. le Comte Andrássy, le soussigné Ambassadeur de Turquie saisit l'occasion etc.

Nr. 5169. Türkei. 21. Aug. 1873.

Cabouli.

Nr. 5170.

OESTERREICH-UNGARN. — Min. d. Ausw. an den türkischen Botschafter in Wien. — Annahme der Einladung.

Vienne, le 31 août 1873.

Nr. 5170. Oesterreich-Ungarn. 31. Aug. 1873.

Le soussigné Ministre Impérial et Royal des affaires étrangères à l'honneur d'accuser réception de la note que Monsieur l'Ambassadeur de Turquie lui a fait l'honneur de lui adresser en date du 21 août courant pour communiquer la décision de la Sublime Porte de convoquer le 15 septembre prochain à Constantinople la Commission internationale appelée à se prononcer sur un mode uniforme de jaugeage et un tonneau-type de navires, ainsi qu'à résoudre définitivement, par l'application des principes posés par la Sublime Porte, les difficultés surgies par rapport à la perception des droits du Canal de Suez. || En accueillant avec empressement cette communication et en félicitant la Sublime Porte de son heureuse initiative, le Soussigné a l'honneur de notifier à Mr. l'Ambassadeur de Turquie l'adhésion du Gouvernement Impérial et Royal d'Autriche-Hongrie au programme indiqué et sa décision de prendre part aux délibérations et décisions de la Commission internationale à laquelle est confiée une tâche importante dont on ne saurait méconnaître ni la grande utilité, ni la nécessité impérieuse. Tout en se réservant la ratification des décisions prises le Gouvernement Impérial et Royal a nommé ses délégués Mr. le Chevalier de Kosjek, Conseiller de Légation et premier Interprète de l'Ambassade Impériale et Royale à Constantinople, Mr. Aloyse Zamara, Inspecteur du Gouvernement maritime Impérial-Royal à Trieste, et Mr. N. Nicolich, Agent général du Lloyd austro-hongrois résidant à Constantinople. Les dispositions nécessaires ont été données à ce que deux de ces délégués soient appelés à représenter le Gouvernement Impérial et Royal au sein de la Commission internationale, tandis que le troisième est désigné à y remplacer l'un ou l'autre de ses collègues en cas d'empêchement. || Le soussigné Ministre Impérial et Royal prie Monsieur l'Ambassadeur de Turquie de vouloir bien porter ce qui précède à la connaissance de la Sublime Porte et il profite de cette occasion etc.

Andrássy.

Nr. 5171.

OESTERREICH-UNGARN. — Min. d. Ausw. an den k. u. k. Geschäftsträger in Konstantinopel (Graf Zaluski). — Instruktion für die Commissionsverhandlungen.

Wien, den 31. August 1873.

Nr. 5171. Oesterreich-Ungarn. 31. Aug. 1873.

Der türkische Botschafter hat hier am 21. d. die Note überreicht, mit der an die k. und k. Regierung von Seite der hohen Pforte die Einladung ergeht, zu der für den 15. September d. J. nach Konstantinopel einberufenen internationalen Commission, die sich mit der Frage einer gleichförmigen Schiffsvermessungs-Methode und mit der Regelung der Gebühreneinhebung auf dem Suezkanale befassen soll, einen oder zwei Delegirte zu entsenden. || Wir begrüssen mit Genugthuung diesen Schritt der türkischen Regierung, sind bereit, der an uns ergangenen Einladung Folge zu leisten, und versprechen uns von der Mitwirkung der betheiligten Mächte nach verschiedenen Richtungen nützliche Erfolge. In diesem Sinne beantworte ich unter Einem die Note des Herrn türkischen Botschafters. || Die Aufgabe der internationalen Commission wird eine doppelte sein: eine allgemeine rein technische und eine besondere, die Suezkanal-Gebührenfrage betreffende. || Wie bekannt, hat die hohe Pforte zu Anfang dieses Jahres die Initiative zur Berufung einer internationalen Commission ergriffen und die Aufmerksamkeit verschiedener Regierungen auf die Vortheile gelenkt, die sich aus der Vereinbarung einer gleichförmigen Schiffsvermessungs-Methode und der Aufstellung einer normalen Schiffstonne sowohl für den Handelsverkehr im Allgemeinen, als insbesondere für die Berechnung der Schiffsgebühren ergeben würden. Die Aufgabe der internationalen Commission bezüglich der Verhandlungen über diesen Gegenstand ist in der Circulardepesche des türkischen Ministers der auswärtigen Angelegenheiten vom 1. Januar 1873 angedeutet. Die Commission wird die bezeichneten Fragen gründlich prüfen und zu entscheiden haben, ob und unter welchen Bedingungen die gewünschten Vereinbarungen durchführbar erscheinen. Wenn auch die nach dem Moorsom'schen System berechnete englische Registertonne bisher den Anforderungen in Betreff der Bestimmung des Netto-Tonnengehaltes eines Schiffes am besten zu entsprechen scheint, neigt sich doch das Urtheil der Sachverständigen zu der Ansicht, dass dieser in Registertonnen ausgedrückte Raumgehalt zu gering bemessen und dass nach dem heutigen Stande der Wissenschaft und Schiffsbaukunst das System Moorsom wesentlicher Verbesserungen fähig sei, die in vollkommenerer und verlässlicherer Weise als bisher den wirklich verwendbaren Raum und beziehungsweise den Netto-Tonnengehalt eines Schiffes eruiren lassen. Die Prüfung dieser wünschenswerthen Abänderungen der verschiedenen Vermessungssysteme und die Feststellung einer einheitlichen Norm in dieser Beziehung werden die

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allgemeine technische Aufgabe der internationalen Commission zu bilden haben. Eine eingreifende und gründliche Erörterung dieses Gegenstandes wird unter allen Umständen dazu beitragen, der Erkenntniss richtiger Grundsätze in weiten Kreisen Eingang zu verschaffen und eine zweckmässige Reform der bestehenden, vielfach ungenügenden und von einander abweichenden Normen anzubahnen. Gelingt es jedoch zugleich, über die angeregten Fragen eine Vereinbarung zu erzielen, so muss den betheiligten Regierungen die definitive Annahme der gefassten Beschlüsse ebenso reservirt bleiben, als jenen Staaten, die sich an den Verhandlungen der internationalen Commission in Konstantinopel nicht betheiligen, der spätere Beitritt zu den gefassten Resolutionen vorbehalten werden soll. || Eine hervorragende Bedeutung vindiciren wir für den zweiten Theil der Aufgabe der internationalen Commission, die nach unserer Auffassung berufen ist, alle Schwierigkeiten definitiv zu beseitigen, die in der Suezkanal-Frage in der letzten Zeit aufgetaucht sind oder in der Zukunft entstehen könnten. || Bis zum 1. Juli 1872 erhob die Suezkanal-Gesellschaft von den Schiffen, die den Kanal passirten, 10 Francs per Registertonne nach dem System Moorsom. Vom 1. Juli 1872 ab änderte sie jedoch ohne Ermächtigung und willkürlich das bis dahin geübte Verfahren und bestimmte, dass die Einhebung der Gebühren von 10 Francs nach dem *gross tonnage* desselben Systems zu geschehen habe, was der Erhöhung der Gebühren um nahezu 50 Procent gleichkommt. Zu einer solchen eigenmächtigen Aenderung einer bestehenden und anerkannten Norm war die Compagnie nach unserer Ansicht um so weniger berechtigt, als im Vertrauen auf den Bestand der Dinge Regierungen und Private Vorbereitungen für die Benutzung des neuen Seeweges und mancherlei Engagements übernommen hatten, die durch die neue Verfügung mitunter empfindlich alterirt worden sind. Infolge dessen wurden von verschiedenen Seiten und speciell auch von uns gegen das ungesetzliche Vorgehen der Compagnie Beschwerden erhoben und die Gebühren seit 1. Juli 1872 von unseren Schiffen nur unter Protest und Vorbehalt aller Rechte entrichtet. || Die Suezkanal-Gesellschaft suchte ihr neues Verfahren durch die Interpretation des im Concessionsfirman enthaltenen Ausdrucks "tonneau de capacité" zu rechtfertigen, durch den nicht der in den Schiffspapieren angegebene Register-Tonnengehalt, sondern ein neues, bisher nirgends zur Anwendung gekommenes Schiffsausmaass bezeichnet sein sollte, das den wirklich benutzbaren Raum eines Schiffes besser und genauer präcisirt als jedes andere der in verschiedenen Ländern gebräuchlichen Systeme. Abgesehen von jeder andern Einwendung, dürfte aber nicht bestritten werden können, dass die Compagnie zu einer solchen selbstständigen, gewissermaassen legislatorischen Interpretation und infolge dessen zur Abänderung der bis zum 1. Juli 1872 in Kraft gestandenen Normen nicht berechtigt war. Eine solche Interpretation konnte nur von der hohen Pforte selbst ausgehen, die dem Concessionsinstrumente kraft ihrer Hoheitsrechte seinerzeit die Sanction ertheilt hatte. Infolge der erhobenen Beschwerden und erst vor kurzer Zeit,

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nachdem die neue Gebühreneinhebungsmethode seit Jahr und Tag schon von der Compagnie unrechtmässig aufrecht erhalten worden war, ist diese Interpretation von der hohen Pforte in dem am 16. Juli d. J. an den Khedive erlassenen Vezirialschreiben und in dem Sinne erflossen, dass der Gebührenbemessung auf dem Suezkanale der wirklich benutzbare Schiffsraum zu Grunde zu legen sei, dass keines der bestehenden Systeme den Anforderungen einer solchen Bemessung vollkommen entspreche, und dass bis zu dem Momente, wo eine derartige Vermessungsmethode durch die internationale Commission vereinbart werden würde, den Gebührenberechnungen die englische Registertonne zu Grunde zu legen sei, weil das Moorsom'sche System den gestellten Bedingungen noch am besten zu entsprechen scheine. || Wir acceptiren diese Entscheidung der hohen Pforte und sind der Ansicht, dass sie den Ausgangspunkt der Commissionsverhandlungen in diesen Fragen bilden soll. Die Pforte hat durch ihre Interpretation das willkürliche Verfahren der Compagnie nicht gebilligt, sondern darauf hingewiesen, dass eine Aenderung der bis zum 1. Juli 1872 auf dem Kanale in Uebung gestandenen Vermessungsmethode insolange nicht zulässig sei, als die von ihr einberufene internationale Commission sich über die Annahme eines neuen Systems nicht geeinigt haben wird. Wir würden den Entschluss der Suezkanal-Gesellschaft, sich dieser Entscheidung ohne Widerspruch und in loyaler Weise zu unterwerfen und so wieder in den gesetzlichen Weg einzulenken, mit Freuden begrüssen und sind unter dieser Bedingung, und wenn bis zu einer definitiven internationalen Vereinbarung über alle die Schifffahrt auf dem Suezkanale betreffenden Gebührenfragen und Normen der status quo, wie er vor dem 1. Juli 1872 bestand, wiederhergestellt und in keinerlei Weise mehr geändert wird, selbst bereit, auf den Ersatz aller seit dem 1. Juli 1872 unrechtmässig erhobenen Gebühren zu verzichten. || Es ist unser aufrichtiger Wunsch, den Bestand und das Gedeihen der Suezkanal-Gesellschaft innerhalb der Grenzen des Rechts und der Billigkeit nach Kräften zu fördern. Wir verkennen nicht die grossen Verdienste dieser Gesellschaft um die Eröffnung eines neuen Seeweges für den Welthandel, unterschätzen auch die Opfer nicht, die sie für die Realisirung dieses grossen Werkes gebracht hat, und wünschen, dass diesen Verdiensten ihre Anerkennung nicht geschmälert werde. Zugleich können wir uns aber der Ueberzeugung nicht verschliessen, dass diese Gesellschaft durch ein willkürliches und ungesetzliches Verfahren, das geeignet erscheint, das Vertrauen zu ihr zu erschüttern, sowie durch eine ungebührliche Belastung und Erschwerung des Schifffahrtsverkehrs durch den Kanal, die ersten und vorzüglichsten Bedingungen ihrer Erhaltung und Entwicklung verrückt und den eigenen Lebensnerv sich selbst unterbindet. Eine stetige Ordnung, gesetzliche Normen und der Schutz einer völkerrechtlichen Vereinbarung sind nach unserer Auffassung jene Factoren, die der Suezkanal-Gesellschaft und ihrem Werke die sichersten Garantien des gedeihlichen Bestandes gewähren. || Ergiebt sich aus den Verhandlungen der internationalen Commission die Verein-

barung einer gleichförmigen Schiffsvermessungsmethode und die Feststellung einer normalen Schiffstonne, durch welche die englische Registertonne ersetzt werden kann, so löst sich die Frage der Gebühreneinhebung auf dem Suezkanal in einfacher Weise, indem für die Zukunft die neue Tonne der englischen Registertonne substituirt wird und der Tarifsatz von 10 Francs aufrecht erhalten bleibt. Es wird wohl keiner Schwierigkeit unterliegen, für die Annahme dieser neuen Normaltonne und ihrer Anwendung auf die Gebührenbemessung auf dem Suezkanal sowohl die Zustimmung der Pforte, als die der betheiligten Mächte zu erwirken, ebenso wie sich ein Schlüssel zur Reduction aller übrigen Systeme auf das neue Maass leicht berechnen lassen wird. || Es ist jedoch auch die Eventualität im Auge zu behalten, dass die theoretische Vereinbarung über die Schiffsvermessungs-Frage auf unerwartete Schwierigkeiten stösst. Wir sind nun der Ansicht, dass diese Eventualität die internationale Commission nicht abhalten dürfe, die Lösung der Suezkanal-Frage trotzdem und mit aller Energie in die Hand zu nehmen. Da die Sachverständigen ohne Zweifel den Unterschied zwischen dem wirklich benutzbaren Raume eines Schiffes und dessen Raumgehalte, wie er sich aus der in den Schiffspapieren enthaltenen Angabe der Registertonnen ergiebt, mit einer gewissen Bestimmtheit anzugeben in der Lage sein werden, so würde nach unserer Ansicht diese Differenz das Verhältniss ergeben, in dem in einem solchen Falle der Tarifsatz von 10 Francs erhöht werden müsste, damit die Interessen der Compagnie im Sinne der von der Pforte gegebenen Interpretation keinerlei Einbusse erleiden. Für den Fall also, dass eine neue einheitliche Schiffsvermessungsmethode nicht vereinbart werden kann und dass sich herausstellt, dass der wirklich benutzbare Raum eines Schiffes grösser ist, als dessen Netto-Tonnengehalt nach dem Moorsom'schen System, sind wir geneigt, einer Erhöhung des Tarifsatzes per englische Registertonne zuzustimmen. Von dieser Idee waren wir geleitet, als wir schon früher eine provisorische Erhöhung des Tarifs von 10 auf 12 Francs in Vorschlag brachten, und wir glauben, dass diese Grenze nach den anzustellenden Berechnungen um so weniger überschritten werden dürfte, als nach den gemachten Erfahrungen des letzten Jahres zu besorgen ist, dass die Schifffahrt eine höhere Belastung nicht vertragen und leicht gezwungen werden könnte, den Kanal zu meiden. || Es versteht sich wohl von selbst, dass bei der Berechnung des wirklich benutzbaren Schiffsraumes nicht lediglich auf den Verkehr zwischen den beiden Endpunkten des Kanales, sondern auf die grosse Schifffahrt zwischen Europa und den Häfen Indiens und Ostasiens Rücksicht zu nehmen sein wird. Wenn bei der kurzen Fahrt durch den Kanal ein Schiff auch sehr schwer belastet werden kann, so ist dies nicht im gleichen Grade der Fall bei einer langen Seefahrt, wobei auch wesentlich auf die für die Mannschaft und Passagiere zu reservirenden Räume Rücksicht zu nehmen ist, die bei den Fahrten durch das Rothe Meer und unter den Tropen anders zu berechnen sind, als wie für sonstige Seereisen. || Neben der Vereinbarung hinsichtlich der be-

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zeichneten Gebührenfrage glauben wir im Interesse der Sache auch dem Wunsche Ausdruck geben zu dürfen, es möge in der internationalen Commission angeregt und zum Beschlusse erhoben werden, dass allen die Schifffahrt durch den Suezkanal betreffenden Reglements, sei es in Betreff der Neutralität des Kanales, sei es bezüglich aller wie immer gearteten und benannten Gebühren und der Rechte und Pflichten der Betheiligten, eine internationale Sanction ertheilt und bestimmt werde, dass daran ohne Zustimmung der an der internationalen Commission theilnehmenden Mächte und der jeweiligen Sanction der hohen Pforte in Zukunft keinerlei wesentliche Aenderung vorgenommen werden dürfe. Wir glauben, dass eine solche Vereinbarung weder den Hoheitsrechten der hohen Pforte Eintrag thun, noch den wohlverstandenen Interessen der Suezkanal-Gesellschaft im Wege stehen würde. Nachdem jedoch diese Fragen zum Theil ausserhalb des Programmes stehen, das für die internationale Commission aufgestellt wurde, beabsichtigen wir nur, die Aufmerksamkeit der betheiligten Mächte auf dieselben zu lenken, und müssen wir es ihrem Ermessen überlassen, diese Gegenstände zum Schlusse der Verhandlungen in das Programm der Commission aufzunehmen. || Wir legen Werth darauf, dass auch der Khedive seiner Zeit durch die Pforte eingeladen werde, in die Commission einen Delegirten zu entsenden, der mit den türkischen Commissären vereint an den Berathungen und Beschlüssen theilzunehmen hätte. Ebenso glauben wir, dass es zweckmässig sein dürfte, auch die Suezkanal-Gesellschaft einzuladen, einen Vertreter in Konstantinopel zu bestellen, der berufen wäre, von der Commission in den einschlägigen Fragen von Fall zu Fall gehört zu werden. || Ich habe im Voranstehenden die Ansichten auseinandergesetzt, die uns in den angedeuteten Fragen leiten. — Euer Hochgeboren werden Sorge tragen, in diesem Sinne unsere Delegirten zu instruiren und denselben zu empfehlen, die Bedeutung ihrer Aufgabe vollständig zu erfassen. Sie werden stets in vollem Einverständnisse mit den Delegirten jener Mächte vorzugehen haben, die unsere Auffassung theilen und von denselben Intentionen wie wir beseelt sind. || Als Delegirte werden von unserer Seite der k. und k. Legationsrath und erster Dollmetsch Ritter von Kosjek, der nautische Inspector der k. k. Seebehörde Aloys Zamara und der Generalagent des österreich-ungarischen Lloyd N. Nikolich in der Art bestellt, dass zwei derselben stets an den Verhandlungen theilnehmen sollen, der dritte aber als Ersatzmann bestimmt ist, den einen oder anderen seiner Collegen in Verhinderungsfällen zu vertreten. Herr Zamara ist bereits angewiesen worden, sich nach Konstantinopel zu begeben, und Euer Hochgeboren werden ihn einladen, sofort nach seiner Ankunft sich mit seinen zwei dort befindlichen Collegen in Verbindung zu setzen. || Empfangen u. s. w.

Andrássy.

Nr. 5172.

OESTERREICH-UNGARN. — Geschäftsträger in Konstantinopel an den k. u. k. Min. d. Ausw. — Zusammentritt der internationalen Commission. — Telegramm.

Konstantinopel, den 6. October 1873.

Nr. 5172. Oesterreich-Ungarn. 6. Oct. 1873.

Heute hat unter dem Vorsitze Edhem Pascha's und der Betheiligung unserer und der Delegirten von Deutschland, Belgien, Spanien, Frankreich, England, Griechenland, Italien, Holland, Russland und Schweden-Norwegen die erste Sitzung der internationalen Aichungskommission stattgefunden.

Zaluski.

Nr. 5173.

OESTERREICH-UNGARN. — Gesandter in Konstantinopel an den k. u. k. Min. d. Ausw. — Schluss der Commissionsarbeiten.

Auszug. Konstantinopel, den 19. December 1873.

Nr. 5173. Oesterreich-Ungarn. 19. Dec. 1873.

Mit gehorsamster Beziehung auf mein gestriges Telegramm, womit ich Euerer Excellenz die am selben Tage erfolgte einstimmige Annahme des Finalberichtes durch die Mitglieder der internationalen Aichungs-Commission und die hierauf stattgehabte Auflösung dieser letzteren anzuzeigen die Ehre hatte, erlaube ich mir nun, Hochdenselben im Anbuge den Schlussbericht über die XXI. und letzte Sitzung der fraglichen Commission zu unterbreiten. Und somit wäre denn nach langen Verhandlungen und nach Ueberwindung vielfacher Schwierigkeiten eine Aufgabe glücklich gelöst, deren Bedeutung gewiss nicht unterschätzt werden wird. Die günstigen Folgen des getroffenen Uebereinkommens werden sich in der Zukunft nach verschiedenen Richtungen herausstellen, wobei vorausgesetzt werden muss, dass die Pforte daran unverbrüchlich festhält, die Ausführung der einstimmig gefassten Beschlüsse ernstlich überwacht und jeden Versuch, die mit den Mächten vereinbarten Abmachungen zu stören, entschieden zurückweist. || Gestern hat auch der hiesige Herr amerikanische Ministerresident die telegraphische Ermächtigung erhalten, den Beschlüssen und Abmachungen der internationalen Aichungs-Commission im Namen der Vereinigten Staaten beizutreten, wodurch nunmehr die Commissionsbeschlüsse seitens aller bedeutenderen Seemächte als maassgebend angenommen erscheinen. || Genehmigen etc.

Ludolf.

Nr. 5174.

EUROPÄISCHE SEEMÄCHTE. — Schlussbericht der internationalen Commission für Schiffsmessung.

Nr. 5174. Europäische Seemächte. 18. Dec. 1873.

La Commission internationale réunie à Constantinople pour répondre à l'appel adressé aux Puissances maritimes par le Gouvernement de Sa Majesté Impériale le Sultan, prenant pour guide de ses travaux les dépêches circulaires du Gouvernement Impérial à ses représentants à l'extérieur, en date des 1 Janvier et 13 Août 1873, les lettres Vizirielles à Son Altesse le Khèdive d'Egypte du 17 Djémazi-ul-Ewel et du 6 Djémazi-ul-Ahir 1290 et les instructions de la Sublime Porte à ses délégués, a consacré vingt et une séances à la discussion des questions qui lui ont été soumises en procédant, d'après les règles qu'elle s'est elle-même préalablement tracées, ainsi qu'en témoignent les Procés-Verbaux annexés à ce Rapport. || En fixant l'ordre de ses travaux, la Commission a cru devoir s'en tenir aux indications données par le Gouvernement de Sa Majesté Impériale dans les lettres d'invitation adressées aux Puissances et dans les instructions données aux délégués Ottomans. || Les dites pièces recommandent de rechercher, en premier lieu, le meilleur mode de constater: 1. La capacité totale et la capacité utilisable d'un navire; et 2. Comme conséquence, d'examiner en suite les conditions actuelles de la perception des droits de navigation par la Compagnie du Canal de Suez. || La Commission poursuivant cet ordre d'idées a divisé ses travaux en deux parties distinctes: 1. Question générale du Tonnage; 2. Question des perceptions des taxes pour le passage dans le Canal de Suez.

Abordant l'examen du premier point et envisageant cette question sous tous ses aspects, elle l'a classée en deux principales divisions: Tonnage brut, et tonnage net. || Formulant son avis sur cette partie de ces travaux, la Commission résume, ainsi qu'il suit, les considérations qui déterminent les propositions qui vont suivre:

L'usage traditionnel de toutes les nations maritimes est d'assujettir les navires de commerce à un mesurage dont le résultat, sous le nom générique de tonnage, sert de base à l'application des taxes auxquelles le corps du navire est ou peut être soumis, pour quelque cause et en quelque lieu que ce soit. || La fixation du tonnage appartient en tout pays au pouvoir souverain comme un des attributs de l'autorité publique. Réglée à l'origine, dans chaque Etat, selon les convenances locales, elle a tendu à se dégager des divergences de nation à nation; mais au fur et à mesure que les échanges maritimes se développaient, les priviléges réservés aux bâtiments nationaux ont fait place à la concurrence internationale. || L'objectif des anciennes règles de tonnage a été d'abord le déplacement, avec une unité de poids, qui s'exprimait aussi en volume supposé équivalent pour déterminer ce qu'un navire pouvait porter ou

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contenir. || Mais partout l'expérience a démontré l'impossibilité de fixer, d'une manière constante, la portée du navire, qui varie nécessairement suivant la nature, la forme et la densité de chacun des éléments concourant à former les cargaisons, et selon les saisons, l'état de la mer et la durée relative des voyages. Il est toujours possible, au contraire, de mesurer exactement la capacité intérieure du navire et d'en déduire, d'une manière pratique, les espaces qui, manifestement, ne peuvent pas être utilisés pour la production du fret. C'est à cette conclusion qu'ont abouti les diverses ordonnances réglant ce sujet, après avoir successivement traversé des phases analogues de tâtonnements et d'études. || Heureusement, après avoir passé par toutes ces phases, malgré les variations dans les procédés, on est à la fin arrivé à établir, dans les conditions à peu près semblables, une statistique comparable du tonnage maritime des différentes nations. || En adoptant partout les mêmes règles de jaugeage, la comparaison ne laisse plus rien à désirer, et la navigation sera partout taxée d'une manière uniforme et équitable. || Cette unification du tonnage peut être réalisée en adoptant une formule qui réunit les trois conditions suivantes: || 1. Mesurer la capacité intérieure du navire avec toute la précision que comporte pratiquement la science géométrique. || 2. Exprimer cette capacité en tonneaux, adoptant pour diviseur commun une unité de jauge, qui résume le mieux, pour toutes les marines, les traditions séculaires de l'expérience commune, et qui donne comme quotient une moyenne de toutes les conditions variables dans lesquelles les navires sont employés. || 3. N'admettre pour la détermination du tonnage net, qui sert de base à l'application des taxes, aucune déduction, qu'à la condition que les espaces déduits ne soient pas employés pour la production de fret, soit en y mettant des passagers, soit en y mettant des marchandises. || La Commission s'est demandé s'il ne serait pas mieux de supprimer l'expression tonneau de jauge afin de faire cesser la confusion continuelle entre le tonneau de jauge et les différents tonneaux employés par le commerce, soit en poids, soit en mesure; mais après mûre délibération, elle a jugé que le temps n'est pas encore venu pour recommander un tel changement dans les usages du monde commercial et maritime, et elle s'est décidée à adopter, pour unité de jauge, le tonneau de capacité du système Moorsom de 100 pieds cubes anglais ou de 2,83 mètres cubes.

Ces principes posés, la Commission Internationale ayant reconnu que le procédé de mesurage de la capacité des navires inauguré par le *Merchant Shipping Act* de 1854 sous le nom de Système Moorsom, dans le Royaume-Uni de la Grande-Bretagne et d'Irlande, réalise le mieux les conditions requises pour la détermination du tonnage brut; qu'aucun système ne se prête mieux à l'application des règles précises de déduction qui doivent déterminer le tonnage net et ne se recommande avec de plus grands avantages pour l'unification du tonnage que la Commission doit rechercher et désire atteindre; Constatant d'ailleurs: 1. Que la plupart des Puissances maritimes en ont ainsi

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jugé, puisque l'Allemagne, l'Autriche-Hongrie, le Danemark, les Etats-Unis d'Amérique, la France, l'Italie, la Norvège et la Turquie ont successivement, avec des variantes dans l'application, adopté le système Moorsom, et que la Belgique, l'Espagne, les Pays-Bas et la Suède, d'après les déclarations de leurs délégués respectifs, sont également en voie de l'adopter; 2. Qu'en ce qui concerne le tonnage net des navires à vapeur, les prescriptions de la loi Anglaise de 1854 laissent beaucoup à désirer, notamment en ce que la déduction est calculée pour une catégorie de navires dont les machines sont dans un certain rapport avec la capacité totale, en prenant un tantième pour cent du tonnage brut, tandis que dans d'autres navires la déduction dépend simplement de l'espace occupé par la machine; 3. Qu'il y a deux autres systèmes de déduction, la différence entre lesquels consiste dans le traitement des soutes à charbon; l'un avec les cloisons mobiles est appelé la règle du Bas-Danube, l'autre pour des soutes fixes est adopté en Allemagne, Autriche-Hongrie, France et Italie; que par le premier de ces systèmes, on laisse la liberté aux armateurs d'employer sans inconvénient leurs navires partout dans le commerce général du monde, tandis que par l'autre système ils sont obligés d'adopter les soutes à charbon fixes pour des voyages déterminés; mais en vue des opinions partagées sur les avantages de l'un ou de l'autre système; ‖ La Commission recommande à l'acceptation des Puissances maritimes les modes de procéder ci-après indiqués et les règles de jaugeage annexées au présent Rapport.

S'ils sont adoptés, il sera désirable que les papiers de bord des navires présentent un tableau de tous les détails du mesurage et du calcul par lesquels on aurait trouvé le tonnage brut et des déductions opérées pour déterminer le tonnage net. ‖ Pour le cas où il y aurait des exceptions dans le mesurage de la capacité totale du navire, on devrait le mentionner dans les papiers de bord.

En discutant et fixant les règles de jaugeage annexées à ce Rapport, la Commission a été guidée par les considérations suivantes, qu'elle soumet aussi à l'approbation des Puissances maritimes.

§. 1. Tout navire de commerce, à quelque nation qu'il appartienne, doit être muni d'un certificat de jauge constatant: *a*) Le tonnage brut ou gross tonnage qui est l'expression de la capacité totale du navire et *b*) le tonnage net qui est l'expression de la capacité du navire après déduction des espaces reconnus non utilisables pour la production du fret.

§. 2. Le certificat de jauge, dont il s'agit, délivré par les autorités compétentes de l'Etat, auquel appartient le navire, après jaugeage opéré d'après les prescriptions des règles proposées par la Commission Internationale, fait foi en tout pays pour servir de base à la perception des taxes auxquelles le corps du navire est ou peut être soumis pour quelque cause et en quelque lieu que ce soit. Les dites taxes sont appliquées au tonnage net du navire.

§. 3. La détermination du tonnage brut ou capacité totale d'un navire est le mieux effectuée au moyen des procédés de jaugeage et de calcul connus sous le nom de système Moorsom, tels qu'ils sont définis par les règles de jaugeage adoptées par cette Commission et annexées au présent Rapport.

§. 4. Le tonnage brut comprend le résultat du jaugeage de tous les espaces au dessous du pont supérieur, ainsi que de ceux compris dans toutes les constructions permanentes, couvertes et closes sur ce pont.

(Pour leur définition voir les règles de jaugeage annexées.)

§. 5. Les déductions à opérer du tonnage brut pour déterminer le tonnage net sont: || 1. Les déductions générales s'appliquant aux navires à voiles et aux navires à vapeur. || 2. Les déductions spéciales aux navires à vapeur.

§. 6. Les déductions générales s'appliquent: || 1. Au logement de l'équipage. (Ne sont pas considérés comme faisant partie de l'équipage les gens de service quels qu'ils soient, embarqués pour le service des passagers.) || 2. Aux cabines des officiers de bord. (Celle du capitaine non comprise.) || 3. Aux cuisines et aux lieux d'aisance et latrines à l'usage exclusif du personnel du bord, qu'ils soient situés au dessous ou au dessus du pont supérieur. || 4. Aux espaces couverts et clos, s'il en existe, placés sur le pont supérieur et destinés à la manoeuvre du navire. || Tous les espaces appliqués à chacun des usages ci-dessus indiqués peuvent être limités séparément suivant les besoins et les habitudes de chaque pays; ils sont cubés isolément, et additionnés: le total devant être déduit, s'il est au-dessous de 5% du tonnage brut, et ne pouvant dans aucun cas dépasser 5% du dit tonnage. || Outre les espaces compris dans les déductions, il a été proposé au sein de la Commission de déduire aussi les espaces occupés par la cabine du capitaine, les soutes à voiles, à cordages et autres agrés de la manoeuvre, mais ces propositions n'ont pas obtenu la majorité absolue des voix.

§. 7. La Commission recommande la suppression de tout système qui ferait dépendre la détermination du tonnage net d'un navire à vapeur de la déduction d'un tantième pour cent de la capacité totale du navire.

§. 8. Les déductions spéciales aux navires à vapeur s'appliquent: || *a*) A la chambre des machines et des chaudières; || *b*) Au tunnel des navires à hélice; || *c*) Aux soutes à charbon permanentes: les espaces des chambres, tunnel et soutes étant exactement mesurés.

§. 9. Si le navire n'a pas de soutes permanentes, ou s'il a seulement des soutes latérales et si l'approvisionnement de charbon est logé dans des magasins prélevés sur la cale au moyen de cloisons mobiles, on ne fera pas entrer l'espace des soutes latérales ou des magasins à charbon dans le mesurage. Dans ce cas on appliquera la règle en vigueur aux Bouches du Danube, c'est-à-dire que pour tenir compte de l'approvisionnement moyen de combustible, on accordera 50% de l'espace de la machine, si le navire est à roues, et 75% de l'espace de la machine, si le navire est à hélice. || (Voir Art. 16 des Règles de jaugeage annexées.)

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§. 10. Les navires munis de soutes permanentes pourront néanmoins être jaugés selon la règle du Danube. Dans ce cas le tonnage net sera établi conformément aux prescriptions du paragraphe ci-dessus.

§. 11. Dans aucun cas (sauf pour les remorqueurs) le total des déductions, spéciales aux navires à vapeur ne pourra dépasser 50% du tonnage brut.

§. 12. Pour les navires remorqueurs, et à la condition expresse que ces navires seront exclusivement affectés au remorquage, les déductions spéciales s'appliqueront sans limite aux espaces réellement occupés par la chambre des machines et l'approvisionnement de combustible.

§. 13. Provisoirement et jusqu'à ce que tous les gouvernements aient adopté des règles uniformes pour le tonnage net, et dans le but d'obtenir en attendant, une certaine uniformité de pratique, il pourra, dans tout Etat, être délivré aux navires à vapeur, appartenant au dit Etat, par les soins des autorités compétentes, pour la délivrance du registre de jauge constatant le tonnage d'après la loi nationale en vigueur, un certificat annexe qui fera foi dans les ports étrangers et qui établira le tonnage net auquel devront être appliquées les taxes à payer dans ces ports.

§. 14. Dans les Etats qui ont déja adopté le système Moorsom, le certificat annexe mentionné ci-dessus sera dressé facultativement, soit d'après la règle applicable aux navires à soutes permanentes, soit d'après la règle du Danube.

§. 15. Dans les pays où le système Moorsom sera, mais n'est pas encore adopté, les navires à vapeur pourront être mésurés d'après la règle II de la loi anglaise de 1854, avec les facteurs 0,0017 et 0,0018. Du tonnage brut ainsi trouvé, on opérera les déductions spéciales accordées par les §§. 6 à 12 ci-dessus. Le certificat annexe spécifié au §. 13 constatera le tonnage brut et le tonnage net du navire; le dit tonnage net sera établi facultativement, soit d'après la règle applicable aux navires à soutes permanentes, soit d'après la règle du Danube.

§. 16. Les navires non pontés n'ont pas été compris dans les règles internationales de jaugeage proposées.

§. 17. Comme sanction pénale on recommande d'ordonner que si un des espaces permanents, qui ont été déduits, est employé pour y mettre des marchandises ou des passagers, ou pour en tirer du profit en l'affrétant, cet espace sera ajouté au tonnage net et ne pourra plus être déduit.

Les dispositions des paragraphes ci-dessus embrassent les principes qui ont guidé la Commission dans son travail et elle émet le voeu que pour garantir l'application identique des dits principes dans tous les Etats, les règles de jaugeage proposées par elle soient adoptées par voie diplomatique, ou par des délégués munis de pleins pouvoirs qui pourraient s'entendre sur les procédés à employer, et pour tous les détails d'exécution.

En abordant la seconde partie de la tâche qui lui a été dévolue par le

Gouvernement de Sa Majesté Impériale le Sultan, la Commission a posé dans les termes suivants, d'accord avec la teneur des instructions du Gouvernement Ottoman à ses délégués, la question à résoudre:

"Le mode actuellement appliqué pour la perception des droits du Canal est-il en harmonie avec les prescriptions de l'acte de concession et du Firman Impérial, selon l'interprétation qui leur a été donnée par les deux lettres Vizirielles à Son Altesse le Khèdive?"

Examen fait de l'acte de concession et des documents ci-dessus indiqués, la Commission a ouvert la discussion et après avoir entendu successivement MM. les délégués d'Allemagne, d'Autriche-Hongrie, de Belgique, d'Espagne, de la Grande-Bretagne, de Grèce, d'Italie, des Pays-Bas, de Russie, de Suède-Norvège et de Turquie elle a été appelée à délibérer sur le projet de résolution présenté par les délégués de la Grande-Bretagne, ainsi qu'en témoignent les procès-verbaux Nr. XII, XIV, XV, XVI. || Avant de se prononcer par un vote sur cette résolution, la Commission, dans la séance du 9 décembre, a reçu de son Président communication de la lettre, en date du même jour, adressée à Son Excellence par Son Excellence Rachid Pacha, Ministre des Affaires Etrangères. || Déférant à la recommandation contenue dans cette lettre, la Commission a discuté et officiellement adopté la rédaction de l'avis suivant qui a été accepté à l'unanimité, et qu'elle espère être conforme au désir exprimé par la Sublime Porte:

Avis.

Invitée par la Sublime Porte à exprimer un avis sur le mode de perception applicable au Canal de Suez en vertu du contrat de concession, du Firman de 1866, et des lettres Vizirielles du 17 Djémazi-ul-Ewel et du 6 Djémazi-ul-Ahir 1290, et se conformant au désir exprimé dans la lettre adressée, le 9 décembre 1873, par Son Excellence Rachid Pacha, Ministre des Affaires Etrangères de Turquie, à Son Excellence Edhem Pacha, Président de la Commission; || Se référant, d'une part, à l'acte de concession de l'entreprise du Canal de Suez, lequel acte doit rester intact; || Se référant, d'autre part, pour l'application des prescriptions de cet acte, aux principes généraux et aux règles de jaugeage, tels que la Commission Internationale les a précédemment déterminés; || La Commission est d'avis qu'on peut régler le mode de cette perception par une transaction, dont les dispositions sont les suivantes:

Navires jaugés d'après le système Moorsom.

1. Il sera perçu sur chaque tonne de registre net des navires dont les déductions propres aux machines ont été déterminées d'après le §. (a) de la clause XXIII qui définit la Règle III de la loi anglaise de 1854, outre la taxe de 10 francs, une surtaxe de 4 francs.

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2. Cette surtaxe sera réduite à 3 francs pour chaque bâtiment qui aura inscrit sur ses papiers de bord, ou annexé à ces papiers, le tonnage net résultant du système de jaugeage recommandé par la Commission Internationale, lequel formera la base de la perception de la taxe et de la surtaxe.

3. Il est entendu que les navires qui sont déjà mesurés d'après l'alternative posée par la Commission et notamment suivant le §. (b) de la clause précitée de la loi anglaise de 1854, n'auront à acquitter, dès à présent, que la surtaxe de 3 francs par tonneau de registre net, sous la condition que les déductions pour la machine et le combustible n'excéderont pas 50% du tonnage brut.

Navires jaugés d'après un autre système que celui de Moorsom.

4. Le tonnage brut des navires qui ne sont pas jaugés d'après le système Moorsom sera ramené au tonnage de ce système par l'application des facteurs du barème du Bas-Danube et leur tonnage net sera déterminé d'après le §. (a) de la clause XXIII précitée. Ils payeront, outre la taxe de 10 francs, une surtaxe de 4 francs par tonne sur ce tonnage net.

Disposition commune à tous les navires.

5. La surtaxe de 3 francs par tonne nette de registre sera progressivement réduite dans les proportions ci-après spécifiées, à mesure du développement du tonnage net des navires transitant annuellement par le Canal, et de manière à ne plus percevoir finalement que la taxe maximum de 10 francs par tonne sur le tonnage net, constaté par les papiers de bord, aussitôt que ce tonnage aura atteint pendant une année, 2,600,000 tonnes de tonnage net de registre. || La décroissance de la surtaxe suivra les proportions ci-après: || Aussitôt que le tonnage net aura atteint le chiffre de 2,100,000 tonnes pendant une année, la Compagnie ne pourra, à partir de l'année suivante, percevoir la surtaxe qu'à raison de $2^1/_2$ francs par tonne. || A partir de l'année qui suivra celle durant laquelle le tonnage net aura atteint 2,200,000 tonnes, la surtaxe ne sera plus que de 2 francs par tonne et ainsi de suite chaque augmentation de 100,000 tonnes pour une année, entraînant une diminution de surtaxe de 50 centimes par tonne pendant l'année suivante; de telle sorte, qu'au moment où le *net tonnage* aura atteint 2,600,000 tonnes pendant une année, la surtaxe sera définitivement supprimée et la taxe ne dépassera plus le chiffre maximum de 10 francs par tonne de registre net. || Il est bien entendu: || 1. Qu'au cas où l'augmentation du tonnage net réalisée pendant une année, dépasserait 100,000 tonnes, la surtaxe décroîtrait pendant l'année suivante d'autant de fois 50 centimes par tonne, qu'il se serait produit de fois 100,000 tonnes de plus. || 2. Qu'une fois que la surtaxe aura été diminuée ou abolie d'après les conditions qu'on vient de dire, aucune augmentation ou ré-imposition ne pourra avoir lieu, même si le tonnage de transit venait de

nouveau à descendre. || 3. Que l'année mentionnée plus haut commence le 1 janvier, nouveau style.

6. Les bâtiments de guerre, les bâtiments construits ou nolisés pour le transport de troupes et les bâtiments sur lest seront exemptés de toute surtaxe; ils ne seront pas soumis à une taxe supérieure au maximum de 10 francs par tonne, qui sera prélevée sur leur tonnage net de registre.

Après avoir exprimé cet avis dans sa XIXème séance, le premier délégué de Turquie, autorisé par son Gouvernement, a fait les deux déclarations suivantes: || Que la permission de percevoir une surtaxe d'un franc concédé à la Compagnie Universelle du Canal maritime de Suez dans l'année 1871, pour un but spécial, est abrogée. || Qu'aucune modification ne pourra être apportée à l'avenir aux conditions de transit, soit en ce qui concerne les droits de navigation, soit en ce qui concerne les droits de remorquage, d'ancrage, de pilotage, etc., qu'avec l'assentiment de la Sublime Porte qui, de son côté, s'entendra à ce sujet avec les principales Puissances intéressées, avant de prendre aucune détermination.

MM. les délégués de la Grande-Bretagne, d'Italie, d'Espagne, de Belgique d'Autriche-Hongrie, d'Allemagne, de Turquie, de France, de Grèce, de Russie et de Suède-Norvège ont declaré, dans la XXème séance, qu'ils sont autorisés par leurs gouvernements à adhérer aux dispositions de la transaction.

MM. les délégués des Pays-Bas ont declaré qu'ils sont autorisés par leur gouvernement à y adhérer également, sous les réserves faites.

Ce rapport final est fait et signé dans une seule expédition, à Constantinople, ce 6/18ème jour du mois de décembre 1873, 28ème jour du mois de Chewal 1290.

Pour l'Allemagne, (Signé) Gillet. Hargreaves.
„ l'Autriche-Hongrie, „ G. de Kosjek. L. Zamara. E. F. Nicolich.
„ la Belgique, „ Cam. Janssen.
„ l'Espagne, „ Joaquin Togores. A. Ruata.
„ la France, „ A. d'Avril. Rumeau.
„ la Grande-Bretagne, „ J. Stokes. Philipp Francis.
„ la Grèce, „ A. A. H. Anargyros.
„ l'Italie, „ E. Cova. F. Mattei. Alex. Vernoni.
„ les Pays-Bas, „ Jansen. Richard S. Keün.
„ la Russie, „ B. E. Steiger. Korchikoff.
„ la Suède et Norvège „ O. von Heidenstam.
„ la Turquie, „ Edhem. M. Salih. H. Madrilly.

Le Secrétaire: (Signé) Carathéodory.

Certifié conforme à l'original:

Le Président:
(Signé) Edhem.

Le Secrétaire
(Signé) Carathéodory.

(Annexe 1.)

Règles de jaugeage recommandées par la Commission Internationale du Tonnage réunie à Constantinople, en 1873.

Principes Généraux.

1. Le tonnage brut ou la capacité totale des navires comprend le mesurage exact de tous les espaces (sans en excepter aucun) qui se trouvent au dessous du pont supérieur ainsi que de ceux compris dans toutes les constructions permanentes couvertes et closes sur ce pont.

Note: Par constructions permanentes couvertes et closes sur le pont supérieur on doit entendre toutes celles qui constituent des espaces limités par des ponts ou couvertures et des cloisons fixes et représentent une augmentation de capacité qui pourrait être utilisée pour l'arrimage des marchandises ou pour le logement et la commodité des passagers et du personnel de bord. Ainsi une ouverture quelconque ou plusieurs ouvertures soit sur le pont ou couverture, soit dans les cloisons, ou une interruption du pont ou le manque d'une partie de cloison, ne les empêcheront pas d'être comprises dans le tonnage brut, si après le mesurage, elles peuvent être facilement closes et rendues ainsi mieux appropriées au transport de marchandises et passagers. || Mais les espaces sous des toitures d'abri, sans d'autres liens avec le corps du navire que les supports nécessaires à leur solidité, qui ne constituent pas des espaces limités et qui sont exposés d'une manière permanente aux intempéries et à la mer, ne seront pas compris dans le tonnage brut, bien que ces toitures puissent servir à abriter les hommes de l'équipage, les passagers de pont et même les marchandises appelés cargaisons de pont (deck loads).

2. Les cargaisons du pont (deck loads) ne sont pas comprises dans le mesurage.

3. Les espaces clos destinés ou pouvant servir aux passagers ne seront pas déduits du tonnage brut.

4. Pour les soutes à charbon, on adopte les règles de la Commission Européenne du Danube de 1871 et le mesurage exact des soutes fixes.

Règle I. Pour les navires vides.

Art. 1. La longueur, pour le jaugeage des navires ayant un ou plusieurs ponts est prise sur le pont de jaugeage qui est: || *a*) Le pont supérieur, pour les navires à un ou deux ponts; *b*) Le second pont à partir de la cale, pour les navires ayant plus de deux ponts; || Cette longueur est mesurée de tête en tête en dedans du vaigrage, à la face supérieure du pont de jaugeage on en retranche ensuite des quantités correspondantes l'une à l'élancement

de l'étrave, sur la partie comprise dans l'épaisseur du bordé du pont, augmenté du tiers du bouge du bau.

Art. 2. En vue de calculer les aires des différentes sections transversales qui sont nécessaires pour établir le volume intérieur du navire, la longueur définie à l'art. 1, est divisée conformément au tableau ci-après:

Longueur du pont de jaugeage.	Nombre de divisions à effectuer.
1. Classe: 50 pieds anglais, 15 mètres ou moins[1]	4
2. Classe: de 50 pieds anglais exclusivement à 120 p. a. inclusivement (15 à 37 mètres)	6
3. Classe: de 120 pieds anglais exclusivement à 180 p. a. inclusivement (35 à 55 mètres)	8
4. Classe: de 180 pieds anglais exclusivement à 225 p. a. inclusivement (55 à 69 mètres)	10
5. Classe: plus de 225 pieds anglais (69 mètres)	12

Note: Un plus grand nombre de divisions n'est pas interdit.

Art. 3. A chaque point de divisions de la longueur, y compris les points extrêmes, on mesure le creux ou la hauteur de chaque section depuis un point marqué au tiers du bouge du pont en contrebas du can supérieur du barrot, jusque sur le collet de la varangue à côté de la carlingue, en déduisant l'épaisseur moyenne du vaigrage de fond. ‖ Les hauteurs de toutes les sections transversales, sont partagées en quatre parties égales, lorsque celle de la section milieu est de 16 pieds anglais (5 mètres) ou moins, et en six parties égales lorsque celle de la section milieu excède 16 pieds anglais (5 mètres). ‖ A chacun des points de division de la hauteur de chaque section (les points extrêmes compris), on mesure la largeur du navire, en dedans du vaigrage). ‖ Chaque largeur est numérotée (Nr. 1, 2, 3 etc.) à partir du pont de jaugeage et l'on multiplie:

Par 1, les largeurs Nr. 1 et 5 (points extrêmes) Par 4, les largeurs Nr. 2 et 5 „ Par 2, la largeur Nr. 3	Lorsque la hauteur est de 16 p. a. (5m) ou moins.
Par 1, les largeurs Nr. 1 et 7 (points extrêmes) Par 4, les largeurs Nr. 2, 4 et 6 „ Par 2, les largeurs Nr. 3 et 5 „	Lorsque la hauteur est plus de 16 p. a. (5m).

Le total des produits ci-dessus est multiplié par le tiers de la distance entre les divisions de la hauteur. Le résultat donne l'aire de la section.

Art. 4. On peut aussi mesurer l'aire des sections transversales avec la même exactitude par la méthode suivante des coordonnées polaires. ‖ On par-

[1]) Les fractions de mètres ont été négligées.

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tage chaque demi-section transversale en sinq secteurs angulaires, ayant même angle au sommet (cet angle est égal à $\frac{9^0}{5} = 18^0$) et on prend pour la surface de chacun d'eux, celle du secteur de cercle compris entre les rayons vecteurs extrêmes et décrits avec le rayon moyen. || Pour procéder au mesurage, il faut mesurer les rayons vecteurs moyens de chaque secteur, dont les deux extrêmes feraient, l'un avec l'horizontale et l'autre avec la verticale, des angles de 9⁰ tandis que les autres sont espacés uniformément de 18⁰. || Pour obtenir leurs directions on place dans le plan de la section un demi-cercle, convenablement divisé et dirigé de manière que son diamètre horizontal passe par le tiers du bouge du bau et que le centre se trouve dans le plan diamétral du navire; les rayons vecteurs seront mesurés à l'aide d'un ruban fixé au centre du demi-cercle. || Pour calculer l'aire de la section on élève au carré les rayons moyens ainsi mesurés, on les additionne entr'eux, et la somme multipliée par 0·31416 sera considérée comme la surface de la section.

Art. 5. Les sections transversales mesurées par l'une de ces deux méthodes sont numérotées (Nr. 1, 2, 3 etc.) assignant le Nr. 1 à l'extrémité avant et le dernier Nr. à l'extrémité arrière de longueur. On multiplie: || L'aire de la première et de la dernière section, s'il y en a, par 1; || Celles des sections des numéros pairs, par 4; || et celles des sections des numéros impairs (la première et dernière exceptées) par 2; || Le total de ces produits, multiplié par le tiers de l'intervalle entre les sections, donne le volume de l'espace mesuré. Le tonnage de ce volume est obtenu en le divisant par 100, si les mesures sont prises en pieds anglais; et par 2·83, si les mesures sont prises en mètres*).

Art. 6. Lorsque le navire a un troisième pont, le volume compris entre ce troisième pont et le pont de jaugeage est déterminé de la manière suivante: || On mesure la longueur de l'entre-pont, au milieu de la hauteur depuis le vaigrage à côté de l'étrave, jusqu'au revêtement intérieur de l'allonge de poupe. || Cette longueur est divisée en autant de parties que pour le pont de jaugeage; à chacun des points de division, ainsi qu'aux points extrêmes, on mesure la largeur au milieu de la hauteur. Les largeurs sont numérotées (1, 2, 3 etc.) à partir de l'avant. On multiplie par 1 la première et la dernière; par 4 celles ayant des numéros pairs et par 2 celles ayant des numéros impairs (la première et la dernière exceptées). Le total de ces produits, multiplié par le tiers de la distance entre les divisions de la longueur, donne l'aire moyenne horizontale de l'entre-pont. On obtient ensuite le volume de l'entre-pont en multipliant cette aire par la hauteur moyenne; et ce volume, divisé par 100, si les mesures ont été prises en pieds anglais, ou par 2,83, si elles ont été prises en mètres, représente le tonnage à ajouter au tonnage principal (article 5.) || Si le navire a plus de trois ponts, le volume et le

[1]) Quand les mesures sont prises en mètres, au lieu de diviser les volumes par 2,83, on peut les multiplier avec 0,353.

tonnage des entre-ponts supérieurs sont calculés de la même manière et ajoutés au tonnage principal.

Art. 7. S'il existe sur le pont supérieur des dunettes, teugues, rodffles ou autres constructions permanentes couvertes et closes, telles qu'elles ont été définies dans les principes généraux, le tonnage en est également ajouté au tonnage principal. Il est calculé de la manière suivante: || 1. Quand les contours sont formés par des surfaces courbes, on mesure à l'intérieur la longueur moyenne de chaque compartiment. On détermine le milieu de cette longueur. A ce point, ainsi qu'aux deux extrémités, on mesure, à la moitié de la hauteur, la largeur du compartiment. On multiplie par 4 la largeur du milieu; on y ajoute les largeurs aux points extrêmes: le total, multiplié par le tiers de la distance entre les divisions de la longueur, donne l'aire moyenne horizontale du compartiment. On mesure alors la hauteur moyenne, et on la multiplie par l'aire moyenne. || 2. Quand les contours sont entièrement formés par des surfaces planes, on mesure le volume en multipliant entre elles, la longueur, la largeur et la hauteur moyennes de chaque compartiment. || L'opération est effectuée pour chaque compartiment distinct. || Dans les deux cas, on divise le volume obtenu par 100, si les mesures sont prises en pieds anglais, ou par 2,83, si elles sont prises en mètres, pour avoir le tonnage de ces espaces.

Art. 8. Dans le mesurage de la longueur, de la largeur et de la hauteur du volume principal ou des autres espaces, on doit ramener à l'épaisseur moyenne le vaigrage qui dépasse cette épaisseur. || Quand le vaigrage manque ou qu'il ne doit pas être établi à demeure, la longueur et les largeurs sont comptées à partir de la membrure.

Règle II. Pour les navires chargés.

Art. 9. Lorsque les navires ont leur chargement à bord, ou que, par tout autre motif, ils ne peuvent pas être jaugés d'après la règle la première, on opère comme il suit: || La longueur du navire est prise sur le pont supérieur depuis le trait extérieur de la rablure de l'étrave jusqu'à la face arrière de l'étambot; on en retranche la distance du point de rencontre de la voûte avec la rablure de l'étambot à la face arrière de cet étambot. || On mesure ensuite la plus grande largeur du navire hors bordé ou hors préceintes. || On marque à l'extérieur et des deux côtés dans une direction perpendiculaire au plan diamétral et à l'endroit de la plus grande largeur, la hauteur du pont supérieur, et l'on fait passer sous le navire une chaîne allant de l'une à l'autre marque. A la moitié de la longueur de la chaîne on ajoute la moitié de la plus grande largeur; on élève la somme au carré; on multiplie le résultat, d'abord par la longueur déjà prise et ensuite par le facteur 0,17 (dix-sept centièmes), si le navire est en bois, et par le facteur 0,18 (dix-huit centièmes), si le navire est en fer. Le produit donnera approximativement le volume du navire, et l'on obtient le tonnage principal en divisant par 100 ou par 2,83, selon que les mesures sont prises en pieds anglais ou en mètres.

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Art. 10. Si au dessus du pont supérieur, il existe des dunettes, gaillards, teugues, rouffles, ou autres constructions permanentes couvertes et closes (telles qu'elles ont été définies dans les principes généraux) on en détermine le tonnage, en multipliant entre elles la longueur, la largeur et la hauteur moyennes et en divisant le produit par 100 ou par 2,83 selon que les mesures sont prises en pieds anglais ou en mètres et on les ajoute au tonnage principal, pour déterminer le tonnage brut ou la capacité totale du navire.

Déductions à faire au tonnage brut pour arriver au tonnage net.

Art 11. Pour passer du tonnage brut des navires tel qu'il vient d'être exposé à la jauge officielle, au tonnage net, soit pour les navires à voiles soit pour les navires à vapeur, on procède de la manière suivante:

Navires à voiles.

Art. 12. Pour les voiliers on déduit: les espaces appropriés et affectés exclusivement au logement des équipages et aux cabines des officiers de bord, à la cuisine et aux latrines à l'usage exclusif du personnel de bord, qui'ls soient situés au dessous ou au dessus du pont supérieur; les espaces couverts et clos, s'il en existe, placés sur le pont supérieur et destinés à la manoeuvre du gouvernail, du cabestan, des appareils de mouillage, à la chambre aux cartes, signaux et autres instruments de la navigation. || Tous les espaces compris dans ces déductions pourront être limités séparément suivant les besoins et les habitudes de chaque pays, mais sans pouvoir dépasser en totalité 5⁰/₀ du tonnage brut.

Art. 13. Le mesurage de ces espaces sera effectué selon les règles exposées pour mesurer les espaces couverts et clos sur le pont supérieur; leur total retranché du tonnage brut représente le tonnage net (register tonnage) ou jauge officielle des navires à voiles.

Navires à vapeur.

Art. 14. Dans les navires mus par la vapeur ou par toute autre puissance mécanique on déduit: || 1. Les mêmes espaces que pour les navires à voiles (art. 12) avec la limitation de 5⁰/₀ du tonnage brut. || 2. Les espaces occupés par les machines, chaudières, soutes à charbon, tunnels des navires à hélice, et, dans les entre-ponts et constructions couvertes et closes sur le ponte supérieur, l'entourage des cheminées, les espaces réservés pour donner accès à l'air et à la lumière aux chambres des machines et ceux nécessaires au fonctionnement et service de la machine même. Ces déductions ne pourront dépasser 50⁰/₀ du tonnage brut.

Art. 15. Le mesurage des espaces communs aux navires à voiles et aux navires à vapeur (1⁰ de l'art. 14) sera pratiqué comme il a été exposé aux

articles 12 et 13 pour les navires à voiles. || Le mesurage des espaces spéciaux aux navires à vapeur (2⁰ de l'art. 14) est effectué de la manière suivante:

Art. 16. Navires à soutes à charbon avec cloisons mobiles.

Dans les navires à vapeur qui n'ont pas des soutes fixes, mais qui ont des soutes transversales à cloisons mobiles, avec ou sans soutes latérales, on mesure l'espace occupé par les chambres à machines et on y ajoute pour les navires à hélice 75 pour cent, et pour les navires à roues 50 pour cent de cet espace. || Par l'espace occupé par les chambres à machines on doit entendre: celui de cette chambre et de celle à chaudières, avec les espaces strictement nécessaires à leur service et leur fonctionnement, en y ajoutant l'espace du tunnel des navires à hélice et les espaces dans les entre-ponts destinés à l'entourage de la cheminée et à donner accès à l'air et à la lumière dans les chambres à machine. || Le mesurage de ces espaces ce pratique de la manière suivante: || On mesure le creux moyen de l'espace occupé par les machines et les chaudières depuis le can supérieur du bau jusqu'au vaigrage de fond à côté de la carlingue, on mesure trois largeurs ou plus, si on le croit nécessaire, à la moitié du creux dans cet espace, en tous cas l'une de ces largeurs sera mesurée au milieu et deux autres aux extrémités de cet espace; on prend la moyenne entre ces largeurs; on mesure la longueur moyenne de l'espace compris entre les cloisons avant et arrière qui limitent la longueur, mais on en déduit, s'il y a lieu, les parties qui ne sont pas affectées ou nécessaires au bon fonctionnement des machines et des chaudières. || Le produit de ces trois dimensions ainsi mesurées est considéré comme donnant le volume de cet espace au dessous du pont qui couvre la machine. || On ajoute à ce volume celui des espaces des entre-ponts qui seraient nécessaires au fonctionnement de la machine et à donner accès à l'air et à la lumière. || On y ajoute, de même, le volume de l'espace occupé par le tunnel de l'arbre de l'hélice et le résultat ainsi obtenu réduit en tonneau de jauge de 100 pieds cubes anglais ou de 2m. 83, selon que les mesures sont prises en pieds ou en mètres, donne le tonnage correspondant à la chambre des machines et chaudières, qui sert de base aux déductions dont il s'agit. || Si la chambre des machines se trouve répartie dans plusieurs compartiments, on mesure chacun d'eux séparément comme il vient d'être dit pour le cas où ils se trouvent réunis, et on les additionne pour obtenir le tonnage total des chambres des machines qui sert comme auparavant de base aux déductions totales.

Art. 17. Navires à soutes à charbon fixes.

Dans les navires à soutes à charbon fixes on mesure la longueur moyenne de la chambre à machines et chaudières, y compris les soutes à charbon. — On calcule les surfaces de trois sections transversales du navire (comme il a été exposé dans la détermination [art. 3 et 4] du tonnage brut) jusqu'au pont qui forme le couronnement de la machine. || L'une de ces trois sections doit passer par le milieu de la dite longueur et les deux autres par les extrémités.

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|| On ajoute à la somme des deux sections extrêmes le quadruple de celle du milieu, et l'on multiplie ce résultat par le tiers de la distance qui sépare les sections. Ce produit divisé par 100, si les mesures sont prises en pieds anglais, ou par 2,83, si elles sont prises en mètres, donne le tonnage de l'espace dont il s'agit. || Si les machines, chaudières et soutes à charbon, se trouvent dans des compartiments séparés, on les mesure séparément, d'après la méthode qui vient d'être exposée, et on en fait l'addition. || Dans les navires à hélice le volume intérieur du tunnel sera mesuré en prenant la longueur, largeur et hauteur moyennes et le produit des trois dimensions divisé par 100 ou par 2,83, selon que les mesures sont prises en pieds anglais ou en mètres, donne le tonnage de cet espace. || On détermine de la même manière le tonnage dans les entre-ponts ou dans les constructions couvertes et closes sur le pont supérieur. || *a*) Des espaces destinés à l'entourage de la cheminée; || *b*) Des espaces destinés à donner accès à l'air et à la lumière dans les chambres à machines: || *c*) Des espaces, s'il y en a, nécessaires au fonctionnement et au service des machines.

Art. 18. Au lieu du mesurage des soutes fixes, on pourra appliquer les règles pour les soutes à cloisons mobiles de l'Article 16.

Art. 19. Pour les bateaux remorqueurs les déductions ne sont pas limitées à 50% du tonnage brut; l'on déduit tous les espaces occupés par les machines, chaudières et routes à charbon. || Toutefois si ces navires ne sont pas exclusivement destinés au service du remorquage, la déduction dont il vient d'être question ne peut dépasser 50% du tonnage brut.

(Annexe 2.)

Admeasurement of tonnage of ships using the mouths of the Danube.

Principles.

1. The gross register tonnage of every ship shall be deemed to be the cubical contents of the hull of the ship, and of every covered-in space on the uppermost deck. The contents of such spaces shall be determined in the manner specified in the „Tonnage Regulations“ herein-after contained.

2. The net register tonnage of sailing ships shall be deemed to be the gross register tonnage as above described, less the space occupied by seamen and apprentices, and appropriated to their use. The net register tonnage of ships propelled by steam or other power requiring engine room shall be deemed to be the gross register tonnage as above described, less the spaces occupied by seamen and apprentices, and appropriated to their use and also less the spaces occupied by the engine room and allowance for coal bunkers. The contents of the said crew spaces and engine and coal spaces, and the deduc-

tions on account thereof, shall be determined in manner specified in the tonnage regulations herein-after contained.

3. Whenever the tonnage of any ship has been ascertained and registered in accordance with the tonnage regulations herein-after contained, the same shall thenceforth be deemed to be the tonnage of such ship, unless any alteration is made in the form, internal arrangement, or capacity of such ship, or unless it is discovered that the tonnage of such ship has been erroneously computed; and in either of such cases such ship shall be remeasured, and her tonnage determined according to the said tonnage regulations.

4. The "tonnage deck" shall be taken to be the upper deck in ships, which have less than three decks, and to be the second deck from below in all other ships.

5. All measurements shall be taken in feet and fractions of feet, or in metres and fractions of metres, and when taken in feet all fractions of feet shall be expressed in decimals.

6. Whether the tonnage of ships is ascertained in cubic feet or in cubic metres, it shall be stated in all certificates and documents issued by the European Commission of the Danube both in British register tons of 100 cubic feet each and in cubic metres, and the factor for converting British register tons into cubic metres shall be a multiplier of 2,83, and for converting cubic metres into British tons shall be a divisor of 2,83.

7. In any case, in which it appears from the national papers of any ship that she has already been measured in the country, in which she is registered, under rules giving results similar to the results given by the "tonnage regulations" herein-after contained, and that her tonnage is expressed on her national papers in British tons of 100 cubic feet each, or in cubic metres, then she shall be exempt from measurement under these rules, so long as she remains of the tonnage and description stated in such papers.

Tonnage Regulations.

Under the following regulations the measurements are to be taken in English feet for ascertaining contents in British tons register. Where the contents are to be ascertained in cubic metres the equivalent measures in cubic metres can be substituted for the figures given herein, or the result arrived at in tons can be converted into cubic metres by the multiplier 2,83.

Rule I.

The gross register tonnage of every ship to be registered, with the exceptions mentioned in Rule II, shall, previously to her being registered, be ascertained by the following rule, herein-after called Rule I, and the gross register tonnage of every ship to which Rule I can be applied, whether she is about to be registered or not, shall be ascertained by such rule:

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Lengths.

(1.) Measure the length of the ship in a straight line along the upper side of the tonnage deck from the inside of the inner plank (average thickness) at the side of the stem to the inside of the midship stern timber or plank there, as the case may be (average thickness), deducting from this length what is due to the rake of the bow in the thickness of the deck, and what is due to the rake of the stern timber in the thickness of the deck, and also what is due to the rake of the stern timber in one third of the round of the beam; divide the length so taken into the number of equal parts required by the following table, according to the class in such table to which the ship belongs:

Table.

Class 1. Ships of which the tonnage deck is according to the above measurement 50 feet long or under, into 4 equal parts:

Class 2. Ships of which the tonnage deck is according to the above measurement above 50 feet long and not exceeding 120, into 6 equal parts:

Class 3. Ships of which the tonnage deck is according to the above measurement above 120 feet long and not exceeding 180, into 8 equal parts:

Class 4. Ships of which the tonnage deck is according to the above measurement above 180 feet long and not exceeding 225, into 10 equal parts:

Class 5. Ships of which the tonnage deck is according to the above measurement above 225 feet long, into 12 parts:

(2.) Then the hold being sufficiently cleared to admit of the required depths and breadths being properly taken, find the transverse area of such ship at each point of division of the length as follows: — Measure the depth at each point of division, from a point at a distance of one third of the round of the beam below such deck or, in case of a break, below a line stretched in continuation thereof, to the upper side of the floor timber at the inside of the limber strake, after deducting the average thickness of the ceiling which is between the bilge planks and limber strake; then if the depth at the midship division of the length do not exceed sixteen feet, divide each depth into four equal parts: then measure the inside horizontal breadth at each of the three points of division, and also at the upper and lower points of the depth, extending each measurement to the average thickness of that part of the ceiling which is between the points of measurement; number these breadths from above (*i. e.* numbering the upper breadth one, and so on down to the lowest breadth); multiply the second and fourth by four, and the third by two; add these products together, and to the sum add the first breadth and the fifth; multiply the quantity thus obtained by one third of the common interval between the breadths, and the product shall be deemed the transverse area; but if the midship depth exceed sixteen feet, divide each depth into six equal parts instead of four, and measure as before directed the horizontal breadths at the five points of division and also at the upper and lower

points of the depth; number them from above as before; multiply the second, fourth, and sixth by four, and the third and fifth by two; add these products together, and to the sum add the first breadth and the seventh; multiply the quantity thus obtained by one third of the common interval between the breadths, and the product shall be deemed the transverse area.

(3.) Having thus ascertained the transverse area at each point of division of the length of the ship as required by the above table, proceed to ascertain the gross register tonnage under the tonnage deck in the following manner: — Number the areas respectively 1, 2, 3, etc., No. 1 being at the extreme limit of the length at the bow, and the last No. at the extreme limit at the length at the stern; then, whether the length be divided according to the table into four or twelve parts as in classes 1 and 5, or any intermediate number as in classes 2, 3 and 4, multiply the second and every even numbered area by four, and the third and every odd numbered area (except the first and last) by two; add these products together, and to the sum add the first and last if they yield anything; multiply the quantity thus obtained by one third of the common interval between the areas, and the product will be the cubical contents of the space under the tonnage deck; divide this product by one hundred, and the quotient shall be deemed to be the gross register tonnage under the tonnage deck.

(4.) If the ship has a deck above the tonnage deck, the tonnage of the space between it and the tonnage deck shall be ascertained as follows: — measure in feet the inside length of the space at the middle of its height from the plank at the side of the stem to the lining on the timbers at the stern, and divide the length into the same number of equal parts into which the length of the tonnage deck is divided as above directed, measure (also at the middle of its height) the inside breadth of the space at each of the points of division, also the breadth of the stem and the breadth at the stern; number them successively 1, 2, 3, etc., commencing at the stem: multiply the second and all the other even numbered breadths by four, and the third and all the other odd numbered breadths (except the first and last) by two; to the sum of these products add the first and last breadths; multiply the whole sum by one third of the common interval between the breadths, and the result will give in superficial feet the mean horizontal area of such space; measure the mean height of such space, and multiply by it the mean horizontal area, and the product will be the cubical contents of the space; divide this product by one hundred, and the quotient shall be deemed to be the gross register tonnage of such space. If the ship has more than three decks, the gross register tonnage of each space between decks above the tonnage deck shall be severally ascertained in manner above described.

(5.) If there be a poop, deck house, forecastle, or any other permanent erection or closed-in or covered-in space on the uppermost deck, available for cargo or stores, or for the berthing or accommodation of passengers or

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the master or crew, the gross register tonnage of such space shall be ascertained as follows: — measure the internal mean length of such space in feet, and divide it into two equal parts; measure at the middle of its height three inside breadths, namely, one at each end, and the other at the middle of the length; then to the sum of the end breadths add four times the middle breadth, and multiply the whole sum by one third of the common interval between the breadths, the product will give the mean horizontal area of such space; then measure the mean height, and multiply by it the mean horizontal area; divide the product by one hundred, and the quotient shall be deemed to be the gross register tonnage of such space. Provided that no addition shall be made to the gross register tonnage of a ship on account of spaces on the uppermost deck covered-in for the shelter, and appropriated exclusively to the use of deck passengers, and approved for that purpose by the Commissioners. In carrying this rule into effect a deck passenger shall be deemed to be a passenger notprovided with accommodation in any cabin, poop, saloon, or deck house, nor with accommodation below the uppermost deck.

(6.) In order to ascertain the gross register tonnage of the ship add together:

a) The gross register tonnage of the space under the tonnage deck ascertained in accordance with paragraph three of this rule.

b) The gross register tonnage of the space or spaces between the tonnage deck and the deck, or decks (if any) above the tonnage deck, ascertained in accordance with paragraph four of this rule.

c) The gross register tonnage of the poop, deck houses, forecastle, and of all other permanent erections and closed-in or covered-in spaces on the upper deck (if any), ascertained in accordance with paragraph five of this rule.

And the total shall be deemed to be the gross register tonnage of the ship.

Rule II.

Ships which, requiring to be measured for any purpose other than registry, have cargo on board, and ships which, requiring to be measured for the purpose of registry, cannot be measured by the rule above given shall be measured by the following rule, here-after called Rule II:

1. Measure the length on the uppermost deck from the outside of the outer plank at the stem to the aftside of the stern post, deducting therefrom the distance between the aftside of the stern post and the rabbet of the stern post at the point where the counter plank crosses it; measure also the greatest breadth of the ship to the outside of the outer planking or wales, and then, having first marked on the outside of the ship on both sides thereof the height of the upper deck at the ship's sides, girt the ship at the greatest breadth in a direction perpendicular to the keel from the height so marked on the outside of the ship on the one side to the height so marked on the other side by passing a chain under the keel; to half the girth thus taken add

half the main breadth; square the sum; multiply the result by the length of ship taken as aforesaid; then multiply this product by the factor 0,0017 (seventeen ten-thousandths) in the case of ships built of wood, and 0,0018 (eighteen ten-thousandths) in the case of ships built of iron, and the product shall be deemed the gross register tonnage of the ship.

2. If there be a poop, deck house, forecastle, or any other permanent erection or covered-in space on the upper deck, the gross register tonnage of such space shall be ascertained by multiplying together the mean length, breadth, and height of such space, and dividing the product by 100, and the quotient so obtained shall be deemed to be the gross register tonnage of such space.

Rule III.

The allowance to be made on account of space occupied in any ship by seamen and apprentices, and entirely and exclusively appropriated to their use, shall be ascertained as follows (that is to say):

Measure the internal cubic capacity of all spaces occupied by seamen or apprentices, and entirely and exclusively appropriated to their use, and divide the sum of such cubic contents expressed in feet and fractions of feet by 100, and the quotient shall be deemed to be the tonnage to be deducted from the gross register tonnage on account of crew spaces, subject to the following provisos: vizt., (1) that no deduction shall be made for any crew space under these regulations, unless the space deducted is set apart for and solely used by seamen and apprentices; and (2) that the allowance for crew spaces ascertained under this rule shall not exceed the rate of 500 cubic feet for every 100 tons of the ship's gross register tonnage. In construing this rule, the word "seaman" includes any engaged to serve in any capacity on board of the ship other than the master or the pilot.

Rule IV.

The allowance to be made for the space occupied by engine room and coal space shall be estimated as follows (that is to say):

The allowance shall consist of the tonnage of the space occupied by or required to be enclosed for the proper working of the machinery and boilers, with the addition for coal space of 75 per cent. thereof in the case of ships propelled by screws, and 50 per cent. thereof in the case of ships propelled by paddle wheels. Provided that, except in the case of steamers used exclusively for the purpose of towing, the whole allowance made for the propelling power, on account of engine room and coal space together, shall not exceed one half of the gross tonnage of the ship. The measurement of such space shall be governed by the following rules (that is to say):

(1.) Measure the mean depth of the space from its crown to the ceiling at the limber strake, measure also three, or, if necessary, more than three breadths of the space at the middle of its depth, taking one of such measure-

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ments at each end, and another at the middle of the length; take the mean of such breadths; measure also the mean length of the space between the foremost and aftermost bulkheads or limits of its length, excluding such parts, if any, as are not actually occupied by or required for the proper working of the machinery; multiply together these three dimensions of length, breadth, and depth, and the product will be the cubical contents of the space below the crown; then find the cubical contents of the space or spaces, if any, between the crown aforesaid and the uppermost or poop deck, as the case may be, which are framed in for the machinery or for the admission of light and air, by multiplying together the length, depth, and breadth thereof; add such contents to the cubical contents of the space below the crown; divide the sum by 100; and the result shall be deemed to be the tonnage of the said space.

(2.) If in any ship, in which the space aforesaid is to be measured, the engines and boilers are fitted in separate compartments, the contents of each shall be measured severally in like manner, according to the above rules, and the sum of their several results shall be deemed to be the tonnage of the said space.

(3.) In the case of screw steamers, in which the space aforesaid is to be measured, the contents of the shaft trunk shall be added to and deemed to form part of such space, and shall be ascertained by multiplying together the mean length, breadth, and depth of the trunk, and dividing the product by 100.

Rule V.

In ascertaining the gross register tonnage of open ships the upper edge of the upper strake is to form the boundary line of measurement, and the depths shall be taken from an athwarthship line extended from upper edge to upper edge of the said strake at each division of the length.

Rule VI.

The owner of any ship which is measured under Rule II of the tonnage regulations may at any subsequent period apply to the Commissioners to have the said ship remeasured under Rule I of the same regulations; and the said Commissioners may thereupon, and upon payment of such fee not exceeding seven shillings and sixpence for each transverse section as they may authorize, direct the said ship to be remeasured accordingly, and the number denoting the register tonnage shall be altered accordingly.

(Annexe 3.)

Tableau des Facteurs

au moyen desquels le tonnage des bâtiments des différentes nations est réduit en tonneaux anglais (Register Tons), pour la perception des droits de navigation à l'embouchure de Soulina.

Bâtiments	Tonneaux	Last	Observations
Austro-Hongrois	0,77	—	
Français	0,94	—	
Italiens	0,94	—	
Ottomans	0,76	—	1 Tonneau anglais est égal à 61 53/100 kilés de Constantinople.
Prussiens	0,98	1,50	Le facteur 0,76 pour les bâtiments ottomans est provisoire.
Russes	1,08	1,89	
Américains (Etats-Unis)	1	—	
Belges	0,95	1,81	Observations générales.
Brémois	—	1,89	L'application de ces facteurs fait obtenir le tonnage net.
Danois	1,02	1,96	Ils ne sont pas appliqués aux bâtiments des Etats qui ont adopté le mode de jaugeage anglais, lorsque d'après leurs papiers de bord, ces bâtiments ont été jaugés suivant ce mode. (Rule 1.)
Espagnols	1	—	
Grecs, ancienne mesure	0,78	—	
Grecs, nouvelle mesure	0,97	—	
Hambourgeois	—	2,77	
Hanovriens	0,98	2,25	
Hollandais	0,89	1,75	
De Lubeck	—	1,89	
Mecklembourgeois	1,09	2,44	
Norvégiens	0,98	2,08	
Oldenbourgeois	0,96	1,50	
Des Principautés-Unies	0,97	—	Un tonneau anglais est égal à 4 82/100 kilés de Galatz, 3 1/100 kilés de Braïla.
Samiotes	0,78	—	
Serbes	0,97	—	
Suédois	1,02	1,98	

Certifié conforme.

Galatz, le 18 octobre 1873.

Pour la Commission Européenne du Danube,
Durando.

Nr. 5175.

TÜRKEI. — Botschafter in Wien an den k. u. k. Min. d. Ausw. — Resultate der internationalen Commission.

Vienne, le 3 mars 1874.

Nr. 5175. Türkei. 3. März 1874.

Le Gouvernement de Sa Majesté Impériale le Sultan avait proposé par une Circulaire du Ministère des affaires étrangères, en date du 1 janvier 1872, de convoquer une Commission internationale, à l'effet de délibérer sur la question si importante de l'unification du tonnage. Cette proposition fut généralement accueillie avec empressement. D'un commun accord, Constantinople fut désigné pour la réunion de la Commission, et les délibérations s'ouvrirent le 16 octobre 1873 au Ministère des affaires étrangères de la Sublime Porte. || La première question abordée par la Commission fut celle du tonnage en général. Tout en admettant la base du calcul établi par Moorsom comme la plus exacte de toutes, quelques délégués proposèrent la révision du diviseur usité dans ce système et l'admission, comme tonneau-type, du tonneau de marchandises et d'encombrement usité en France et en Angleterre. Cette proposition ne fut point admise par la Commission qui constata que dans l'évaluation de la capacité des navires en tonneaux, on ne saurait mieux faire que de s'en tenir purement et simplement au système Moorsom. Le tonnage brut ainsi déterminé, la Commission s'occupa de la fixation du tonnage net; sur ce point quelques modifications semblaient nécessaires; de nouvelles règles furent formulées et l'opinion générale est que ces règles, tout en donnant en certains cas des chiffres un peu plus forts, se rapprochent beaucoup plus de la vérité et de l'exactitude. En même temps la question du péage du canal de Suez, question spéciale, mais d'un intérêt universel, s'imposait aux préoccupations de tout le monde. Le Gouvernement Impérial ottoman, ayant déclaré que la capacité sur laquelle la taxe maximum de 10 francs devait être perçue était la capacité utilisable, la Commission fut saisie du soin de formuler cette règle dans la pratique et les délégués, indépendamment de la question légale, s'arrêtèrent, d'un commun accord, à une transaction sur les bases suivantes: || Surtaxe de 4 francs pour les navires à vapeur jaugés par le système établi par la loi anglaise de 1854 et de 3 francs pour tous les bâtiments jaugés d'après le système recommandé par la Commission; || Alternative laissée entre la règle du Danube et les mesurages des soutes fixes; || Réduction de la taxe de 10 francs, au cas où le tonnage annuellement transitant par le canal, atteindrait le chiffre de 2.600,000 tonnes. || Telles sont les bases, sur lesquelles repose l'accord transactionnel de la Commission, auquel le Gouvernement Impérial ottoman a donné son plein assentiment. Il dépend aujourd'hui entièrement de la Compagnie de profiter des résultats que cette transaction est de nature à lui assurer. ||

Dans l'opinion de la Sublime Porte, ce double travail de la Commission est digne de la plus sérieuse considération à tous égards. En ce qui concerne la question générale de l'unification du tonnage, il est de fait que les délibérations de la Commission ont donné de ce problème épineux la meilleure solution, à laquelle il soit possible d'atteindre dans l'état actuel des sciences et des connaissances nautiques. || L'application du système formulé par la Commission dépend, il est vrai, de la volonté des Gouvernements. Mais les avantages devant résulter de l'unification des divers tonnages sont tellement évidents que tout porte à croire que les administrations s'empresseront de mettre à profit les résultats acquis à la science par les traveaux de la Commission. || C'est dans cette conviction que le soussigné, Ambassadeur de Sa Majesté le Sultan, a été chargé, d'ordre de son Gouvernement, de communiquer au Gouvernement de Sa Majesté Impériale et Royale Apostolique le recueil contenant les procès verbaux, rapports et autres de la Commission internationale pour le tonnage, réunie à Constantinople. || Le soussigné saisit cette occasion etc.

Nr. 5175. Türkei. 3. März 1874.

Cabouli.

Beziehungen mit Japan.

Nr. 5176.

OESTERREICH-UNGARN. — Min. d. Ausw. an die k. und k. Missionen zu London, Paris, Rom, Bern und im Haag. — Mittheilung über eine Conferenz mit den japanesischen Botschaftern.[1]

Wien, den 10. Juli 1873.

Nr. 5176. Oesterreich-Ungarn. 10. Juli 1873.

Wir halten uns verpflichtet, jenen Mächten, die so freundlich waren, uns seiner Zeit die Protokolle der zwischen ihnen und der japanesischen Botschaft unter Ivacura's Führung stattgehabten Besprechungen und Conferenzen mitzutheilen, auch von den Verhandlungen Kenntniss zu geben, die die gedachte Botschaft hier geführt hat. Euer Excellenz werden sonach beauftragt, die angeschlossene Abschrift des Protokolls einer am 13. Juni d. J. zwischen mir und den japanesischen Botschaftern stattgefundenen Conferenz der Regierung zur Verfügung zu stellen, bei der Euer Excellenz die Ehre haben beglaubigt zu sein. || Empfangen etc.

Andrássy.

Beilage.

Conferenz Seiner Excellenz des k. und k. Ministers des Aeussern, Grafen Andrássy, mit Ihren Excellenzen den ausserordentlichen japanesischen Botschaftern Ivacura und Yamagutchi, abgehalten am 13. Juni 1873 im Ministerium des Aeussern.

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Nach gegenseitiger Begrüssung ersucht Seine Excellenz der Herr Minister die Herren Botschafter, die Zwecke ihrer Mission und den Gegenstand der von ihnen gewünschten Conferenz bekanntgeben zu wollen. || Seine Excellenz Ivacura bezeichnet es als den hauptsächlichsten Zweck ihrer Botschaft, Namens Seiner Majestät des Kaisers von Japan und seiner Regierung Freundschaftsversicherungen zu überbringen und gleiche Gesinnungen gegen Japan zu erbitten. Es ist dies die erste diplomatische Mission, welche Seitens Seiner Majestät an die Vertragsstaaten abgesendet wurde. Auf die Umwälzung näher einzugehen, welche in den letzten Jahren in Japan stattgefunden, und die umfassenden liberalen Reformen auseinanderzusetzen, welche daselbst ins Werk gesetzt wurden, halte er für überflüssig, nachdem Seine Excellenz von allem dem ohnehin wohlunterrichtet sei. Er beschränke sich daher auf die nachdrückliche Versicherung, dass die Regierung Seiner Majestät des Micado von dem aufrichtigen Wunsche beseelt sei, die Beziehungen mit dem Auslande, und speciell mit der k. und k. Monarchie, immer befriedigender und inniger zu gestalten. || Seine Excellenz Herr Graf Andrássy erwiedert, dass Seine Majestät der Kaiser und König und Allerhöchstseine Regierung erfreut waren, die ausserordentliche Botschaft Seiner Majestät des Kaisers von Japan zu empfangen, eine Botschaft, aus so ausgezeichneten Männern bestehend, welche an dem Reformwerke in Japan bereits in hervorragender Weise Theil genommen haben, und welche berufen sind, auch fernerhin ihrer Heimat wichtige Dienste zu leisten. Er versichert Ihren Excellenzen, dass die k. und k. Regierung die Gesinnungen der Freundschaft, welche die Herren Botschafter auszusprechen beauftragt seien, vollkommen theile und auch ihrerseits auf die Pflege guter Beziehungen mit Japan grossen Werth lege. || Seine Excellenz Ivacura dankt für diese Versicherung und bemerkt weiter, für Japan trete ein wichtiger Moment heran, derjenige, in welchem dessen Beziehungen zu dem Auslande neu geregelt werden sollen. Nach seiner Rückkehr dahin werde nämlich die Revision der Verträge mit den fremden Staaten vorgenommen werden. Er sei nun beauftragt, sich anzufragen, ob und welche Abänderungen des gegenwärtig bestehenden Vertragsverhältnisses die k. und k. Regierung zu beantragen Willens sei. || Der Herr Minister erwiedert: Da ihm bekannt sei, dass die Herren Botschafter mit Vollmachten zu bindenden Abmachungen nicht versehen seien, so werde die Discussion der einzelnen, hier in Betracht kommenden Punkte Aufgabe des österreichisch-ungarischen Vertreters am japanesischen Hofe sein, welcher zu diesem Behufe mit den er-

forderlichen Instruktionen und Vollmachten versehen sein werde. Uebrigens sei der österreichisch-ungarische Vertrag mit Japan der letzte, den dieses Land mit einer auswärtigen Macht abgeschlossen, und sei auch der anerkannt beste. Bei der Geringfügigkeit des dermaligen Verkehrs der österreichisch-ungarischen Monarchie mit Japan scheine ihm auch das Vertragsverhältniss, wie es dermalen besteht, hinreichend. Selbstverständlich erwarte aber die k. und k. Regierung unter allen Umständen die Behandlung auf dem Fusse der Meistbegünstigten und behalte sich vor, Concessionen, welche an andere Nationen über das gegenwärtige Maass hinaus gemacht werden sollten, auch für sich in Anspruch zu nehmen. || Herr Ivacura erklärt sich hiermit ganz einverstanden und ersucht Seine Excellenz, ihm zu gestatten, einige Wünsche vorzubringen, welche die japanesische Regierung selbst in Bezug auf gewisse Abänderungen der nun bestehenden Verträge am Herzen hat. Der wichtigste dieser Wünsche betreffe die Jurisdiction. Japan suche auf dem Wege der Gesetzgebung und der administrativen Reform sich den civilisirten Staaten Europa's und Amerika's mehr und mehr zu nähern. Andererseits müsse es auch dahin streben, gleich diesen die vollen Souveränetätsrechte innerhalb der eigenen Grenzen auszuüben. || Die Consularjurisdiction, welcher die Fremden derzeit in Japan unterstehen, sei eine Anomalie. Er wisse nun allerdings, dass dieselbe nicht mit einem Male beseitigt werden könne. Der Uebergang dürfe kein plötzlicher sein, sondern es müsse schrittweise und mit allen nöthigen Vorsichten und Vorbereitungen vorgegangen werden. || Der Herr Minister erwiedert: Die weisen Bemerkungen des Herrn Botschafters beweisen, dass Seine Excellenz selbst wohl einsieht, wie schwer es für die Angehörigen europäischer Staaten ist, die Jurisdiction so entfernter, ihnen in Gebräuchen, Anschauungen und Sprache so fremder Länder anzunehmen. || Seine Excellenz macht die Herren Botschafter auf die in dem näheren Orient bestehenden analogen Jurisdictionsverhältnisse und auf die langjährigen bezüglichen Negociationen aufmerksam, welche noch immer zu keinem Abschlusse geführt haben. Erste Voraussetzung sei vollkommene Kenntniss der Gesetze und Einrichtungen des betreffenden Landes, ferner das Vertrauen, dass die dortseitige Jurisdiction den Fremden volle Gerechtigkeit und Schutz sichern könne. — Sei es einmal so weit, so werde die k. und k. Regierung den diesbezüglichen Wünschen Japans sicherlich nicht in den Weg treten. Die praktischesten Mittel zu diesem Ziele bestünden aber wohl darin, dass Japan den Fremden mehr und mehr eröffnet werde, und dass die Japaner selbst immer zahlreicher herüberkommen, indem nur auf diesem Wege die erforderliche gegenseitige Bekanntschaft und das unentbehrlichste Mittel gegenseitiger Verständigung, d. i. die Sprachkenntniss, erlangt werden können. Nachdem die japanesische Regierung dem Systeme der hermetischen Abschliessung entsagt habe, sei es nur folgerichtig und gewiss auch in ihrem Interesse gelegen, wenn sie auf dem eingeschlagenen neuen Wege weiter gehe. || Ivacura betheuert, dass seine Regierung keinen sehnlicheren Wunsch hege, als das ganze Land dem Ver-

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kehre der Fremden zu eröffnen. Der Ausführung dessen stehe aber eben wieder die Consularjurisdiction entgegen. Es sei ohne die grössten Unzukömmlichkeiten nicht möglich, dass sich die Fremden im Innern des Landes frei bewegen, wenn Niemand über sie eine Autorität ausüben könne, als die in einigen wenigen Häfen residirenden, oft viele Tagreisen entfernten Consuln. || Der Herr Minister wiederholt, dass die Annahme der Localjurisdiction Seitens der Fremden Sache der gegenseitigen Bekanntschaft und des Vertrauens sei. Durch die Rücknahme der Edicte gegen die Christen habe die japanesische Regierung einen bedeutenden Schritt gethan, um sich letzteres zu erwerben. Er zweifle nicht, dass ihre weiteren Maassnahmen von demselben fortschrittlichen und humanitären Geiste eingegeben sein werden, und dass sie sich mit solchen Mitteln dem von ihr angestrebten Ziele mehr und mehr nähern werde. Die österreichisch-ungarische Regierung begleite diese Bestrebungen mit Sympathie, und sie werde die letzte sein, Hindernisse zu bereiten. || Der Herr Botschafter dankt für diese wohlwollenden Aeusserungen. Hierauf ergreift Seine Excellenz Yamagutchī das Wort und bemerkt, ein weiterer Wunsch der japanesischen Regierung betreffe den Tarif. Die bisherige vertragsmässige Fixirung des Tarifs mache jede Modification desselben von dem Einverständnisse des Auslandes abhängig; die japanesische Regierung sehe sich daher verhindert, die Zölle, d. i. die Besteuerung des auswärtigen Handels, mit der jeweiligen innern Besteuerung in Einklang zu bringen. Sie wünsche daher die Selbstbestimmung in der Festsetzung des Tarifs. || Dagegen macht Seine Excellenz der Herr Minister die Herren Botschafter darauf aufmerksam, dass feste Tarife im Interesse des Handels nothwendig seien, indem dieser gegen willkürliche Zollveränderungen, die jeden mercantilischen Calcul illusorisch machen, gesichert sein müsse. Er weist auf die zwischen den europäischen Staaten bestehenden Zollverträge hin und hebt hervor, dass in dem Verkehre mit so weit entlegenen Ländern, wie Japan, die Nothwendigkeit einer festen Basis um so grösser sei. || Dagegen könnten kürzere Kündigungsfristen vereinbart werden. Allein er frage, ob es nicht vorzuziehen sei, öftere Revisionen zu vermeiden, indem der Vortheil solcher oftmaligen Tarifverhandlungen zumeist denjenigen Contrahenten zufalle, welche im Stande sind, auf den andern Theil eine Pression auszuüben. || Ivacura erwiedert, er sehe ein, wie richtig und wohlgemeint diese Bemerkungen seien. Er danke ganz besonders dafür und werde sich stets daran erinnern. || Hierauf geht das Gespräch auf die glänzende Betheiligung Japans an der Wiener Weltausstellung über. || Die Conferenz wird sodann geschlossen.

Schweizer Verfassungsrevision.

Nr. 5177.

SCHWEIZ. — Bundesgesez, betreffend die Revision der Bundesverfassung vom 12. September 1848. Vom 31. Januar 1874[1]).

Die Bundesversammlung der schweizerischen Eidgenossenschaft,

in Anwendung der Artikel 111, 112 und 114, sowie des Art. 74, Ziffer 1 der Bundesverfassung,

beschliesst:

Artikel 1. Es wird dem schweizerischen Volke und den Kantonen die Bundesverfassung in nachfolgender veränderter Fassung zur Annahme oder Verwerfung vorgelegt:

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Jezige Bundesverfassung.	Revidirte Bundesverfassung.
Im Namen Gottes des Allmächtigen!	Unverändert.
Die schweizerische **Eidgenossenschaft,** in der Absicht, den Bund der Eidgenossen zu befestigen, die Einheit, Kraft und Ehre der schweizerischen Nation zu erhalten und zu fördern, hat nachstehende Bundesverfassung angenommen:	

[1]) Vgl. Staatsarchiv Bd. XXII Nr. 4649 und 4650. A. d. Red.

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Schweiz.
31. Jan. 1874.

Jezige Bundesverfassung.	Revidirte Bundesverfassung.
Bundesverfassung der schweizerischen Eidgenossenschaft.	
Erster Abschnitt. **Allgemeine Bestimmungen.**	
Art. 1.	Art. 1.
Die durch gegenwärtigen Bund vereinigten Völkerschaften der zwei und zwanzig souveränen Kantone als: Zürich, Bern, Luzern, Uri, Schwyz, Unterwalden (ob und nid dem Wald), Glarus, Zug, Freiburg, Solothurn, Basel (Stadt und Land), Schaffhausen, Appenzell (beider Rhoden), St. Gallen, Graubünden, Aargau, Thurgau, Tessin, Waadt, Wallis, Neuenburg und Genf, bilden in ihrer Gesammtheit die schweizerische Eidgenossenschaft.	Unverändert.
Art. 2.	Art. 2.
Der Bund hat zum Zwek: Behauptung der Unabhängigkeit des Vaterlandes gegen Aussen, Handhabung von Ruhe und Ordnung im Innern, Schuz der Freiheit und der Rechte der Eidgenossen und Beförderung ihrer gemeinsamen Wohlfahrt.	Unverändert.
Art. 3.	Art. 3.
Die Kantone sind souverän, soweit ihre Souveränetät nicht durch die Bundesverfassung beschränkt ist, und üben als solche alle Rechte aus, welche nicht der Bundesgewalt übertragen sind.	Unverändert.

Jezige Bundesverfassung.	Revidirte Bundesverfassung.
Art. 4.	**Art. 4.**
Alle Schweizer sind vor dem Geseze gleich. Es gibt in der Schweiz keine Unterthanenverhältnisse, keine Vorrechte des Orts, der Geburt, der Familien oder Personen.	Unverändert.
Art. 5.	**Art. 5.**
Der Bund gewährleistet den Kantonen ihr Gebiet, ihre Souveränetät inner den Schranken des Artikels 3, ihre Verfassungen, die Freiheit, die Rechte des Volkes und die verfassungsmässigen Rechte der Bürger gleich den Rechten und Befugnissen, welche das Volk den Behörden übertragen hat.	Unverändert.
Art. 6.	**Art. 6.**
Die Kantone sind verpflichtet, für ihre Verfassungen die Gewährleistung des Bundes nachzusuchen. Der Bund übernimmt diese Gewährleistung, insofern: a. sie nichts den Vorschriften der Bundesverfassung Zuwiderlaufendes enthalten; b. sie die Ausübung der politischen Rechte nach republikanischen — repräsentativen oder demokratischen — Formen sichern; c. sie vom Volke angenommen worden sind und revidirt werden können, wenn die absolute Mehrheit der Bürger es verlangt.	Unverändert.
Art. 7.	**Art. 7.**
Besondere Bündnisse und Verträge politischen Inhalts zwischen den Kantonen sind untersagt. Dagegen steht ihnen das Recht zu, Verkommnisse über Gegenstände der Gesezgebung, des Gerichtswesens und	Unverändert.

Jezige Bundesverfassung.	Revidirte Bundesverfassung.
der Verwaltung unter sich abzuschliessen; jedoch haben sie dieselben der Bundesbehörde zur Einsicht vorzulegen, welche, wenn diese Verkommnisse etwas dem Bunde oder den Rechten anderer Kantone Zuwiderlaufendes enthalten, deren Vollziehung zu hindern befugt ist. Im entgegengesezten Falle sind die betreffenden Kantone berechtigt, zur Vollziehung die Mitwirkung der Bundesbehörden anzusprechen.	
Art. 8.	Art. 8.
Dem Bunde allein steht das Recht zu, Krieg zu erklären und Frieden zu schliessen, Bündnisse und Staatsverträge, namentlich Zoll- und Handelsverträge, mit dem Auslande einzugehen.	Unverändert.
Art. 9.	Art. 9.
Ausnahmsweise bleibt den Kantonen die Befugniss, Verträge über Gegenstände der Staatswirthschaft, des nachbarlichen Verkehrs und der Polizei mit dem Auslande abzuschliessen; jedoch dürfen dieselben nichts dem Bunde oder den Rechten anderer Kantone Zuwiderlaufendes enthalten.	Unverändert.
Art. 10.	Art. 10.
Der amtliche Verkehr zwischen Kantonen und auswärtigen Staatsregierungen, sowie ihren Stellvertretern, findet durch Vermittlung des Bundesrathes statt. Ueber die im Art. 9 bezeichneten Gegenstände können jedoch die Kantone mit den untergeordneten Behörden und Beamten eines auswärtigen Staates in unmittelbaren Verkehr treten.	Unverändert.

Jezige Bundesverfassung.

Art. 11.

Es dürfen keine Militärkapitulationen abgeschlossen werden.

Art. 12.

Die Mitglieder der Bundesbehörden, die eidgenössischen Civil- und Militärbeamten und die eidgenössischen Repräsentanten oder Kommissarien dürfen von auswärtigen Regierungen weder Pensionen oder Gehalte, noch Titel, Geschenke oder Orden annehmen.

Sind sie bereits im Besize von Pensionen, Titeln oder Orden, so haben sie für ihre Amtsdauer auf den Genuss der Pensionen und das Tragen der Titel und Orden zu verzichten.

Untergeordneten Beamten und Angestellten kann jedoch vom Bundesrath der Fortbezug von Pensionen bewilligt werden.

Art. 13.

Der Bund ist nicht berechtigt, stehende Truppen zu halten.

Ohne Bewilligung der Bundesbehörde darf kein Kanton oder in getheilten Kantonen kein Landestheil mehr als 300 Mann stehende Truppen halten, die Landjägerkorps nicht inbegriffen.

Art. 14.

Die Kantone sind verpflichtet, wenn Streitigkeiten unter ihnen vorfallen,

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Art. 11.

Unverändert.

Art. 12.

Die drei ersten Alinea beibehalten, mit Beifügung folgender zwei weitern Alinea:

Im schweizerischen Heere dürfen weder Orden getragen, noch von auswärtigen Regierungen verliehene Titel geltend gemacht werden.

Das Annehmen solcher Auszeichnungen ist allen Offizieren, Unteroffizieren und Soldaten untersagt.

Art. 13.

Unverändert.

Art. 14.

Unverändert.

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sich jeder Selbsthülfe, sowie jeder Bewaffnung zu enthalten und sich der bundesmässigen Entscheidung zu unterziehen.	
Art. 15.	Art. 15.
Wenn einem Kantone vom Auslande plözlich Gefahr droht, so ist die Regierung des bedrohten Kantons verpflichtet, andere Kantone zur Hülfe zu mahnen, unter gleichzeitiger Anzeige an die Bundesbehörde und unvorgreiflich den spätern Verfügungen dieser leztern. Die gemahnten Kantone sind zum Zuzuge verpflichtet. Die Kosten trägt die Eidgenossenschaft.	Unverändert.
Art. 16.	Art. 16.
Bei gestörter Ordnung im Innern, oder wenn einem andern Kantone Gefahr droht, hat die Regierung des bedrohten Kantons dem Bundesrathe sogleich Kenntniss zu geben, damit dieser inner den Schranken seiner Kompetenz (Art. 90, Nr. 3, 10 und 11) die erforderlichen Maassregeln treffen oder die Bundesversammlung einberufen kann. In dringenden Fällen ist die betreffende Regierung befugt, unter sofortiger Anzeige an den Bundesrath, andere Kantone zur Hülfe zu mahnen, und die gemahnten Stände sind zur Hülfeleistung verpflichtet.	Unverändert. (Art. 102, Ziffer 3, 10 und 11.)
Wenn die Kantonsregierung ausser Stande ist, Hülfe anzusprechen, so kann, und wenn die Sicherheit der Schweiz gefährdet wird, so soll die kompetente Bundesbehörde von sich aus einschreiten.	
In Fällen eidgenössischer Intervention sorgen die Bundesbehörden für Beachtung der Vorschriften von Art. 5.	

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Die Kosten trägt der mahnende oder die eidgenössische Intervention veranlassende Kanton, wenn nicht die Bundesversammlung wegen besonderer Umstände etwas Anderes beschliesst.	
Art. 17. In den durch Art. 15 und 16 bezeichneten Fällen ist jeder Kanton verpflichtet, den Truppen freien Durchzug zu gestatten. Diese sind sofort unter eidgenössische Leitung zu stellen.	**Art. 17.** Unverändert.
Art. 18. Jeder Schweizer ist wehrpflichtig.	**Art. 18.** Jeder Schweizer ist wehrpflichtig. Wehrmänner, welche in Folge des eidgenössischen Militärdienstes ihr Leben verlieren oder dauernden Schaden an ihrer Gesundheit erleiden, haben für sich oder ihre Familien im Falle des Bedürfnisses Anspruch auf Unterstützung des Bundes. Die Wehrmänner sollen ihre erste Ausrüstung, Bekleidung und Bewaffnung unentgeltlich erhalten. Die Waffe bleibt unter den durch die Bundesgesezgebung aufzustellenden Bedingungen in den Händen des Wehrmannes. Der Bund wird über den Militärpflichtersaz einheitliche Bestimmungen aufstellen.
Art. 19. Das Bundesheer, welches aus den Kontingenten der Kantone gebildet wird, besteht: a. aus dem Bundesauszug, wozu jeder Kanton auf 100 Seelen schweizerischer Bevölkerung drei Mann zu stellen hat; b. aus der Reserve, deren Bestand die Hälfte des Bundesauszuges beträgt.	**Art. 19.** Das Bundesheer besteht: a. aus den Truppenkörpern der Kantone; b. aus allen Schweizern, welche zwar nicht zu diesen Truppenkörpern gehören, aber nichtsdestoweniger militärpflichtig sind.

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In Zeiten der Gefahr kann der Bund auch über die übrigen Streitkräfte (die Landwehr) eines jeden Kantons verfügen.

Die Mannschaftsskala, welche nach dem bezeichneten Maassstabe das Kontingent für jeden Kanton festsezt, ist alle zwanzig Jahre einer Revision zu unterwerfen.

Revidirte Bundesverfassung.

Die Verfügung über das Bundesheer mit Inbegriff des gesezlich dazu gehörigen Kriegsmaterials steht der Eidgenossenschaft zu.

In Zeiten der Gefahr hat der Bund das ausschliessliche und unmittelbare Verfügungsrecht auch über die nicht in das Bundesheer eingetheilte Mannschaft und alle übrigen Streitmittel der Kantone.

Die Kantone verfügen über die Wehrkraft ihres Gebietes, soweit sie nicht durch verfassungsmässige oder gesezliche Anordnungen des Bundes beschränkt sind.

Jezige Bundesverfassung.

Art. 20.

Um in dem Bundesheere die erforderliche Gleichmässigkeit und Dienstfähigkeit zu erzielen, werden folgende Grundsäze festgesezt:

1) Ein Bundesgesez bestimmt die allgemeine Organisation des Bundesheeres.

2) Der Bund übernimmt:

a. den Unterricht der Genietruppen, der Artillerie und der Kavallerie, wobei jedoch den Kantonen, welche diese Waffengattungen zu stellen haben, die Lieferung der Pferde obliegt;

b. die Bildung der Instruktoren für die übrigen Waffengattungen;

c. für alle Waffengattungen den höhern Militärunterricht, wozu er namentlich Militärschulen errichtet und Zusammenzüge von Truppen anordnet;

d. die Lieferung eines Theiles des Kriegsmaterials.

Die Zentralisation des Militärunterrichts kann nöthigenfalls durch die

Revidirte Bundesverfassung.

Art. 20.

Die Gesezgebung über das Heerwesen ist Sache des Bundes. Die Ausführung der bezüglichen Geseze in den Kantonen geschieht, innerhalb der durch die Bundesgesezgebung festzusezenden Grenzen und unter Aufsicht des Bundes, durch die kantonalen Behörden.

Der gesammte Militärunterricht und ebenso die Bewaffnung ist Sache des Bundes.

Die Beschaffung der Bekleidung und Ausrüstung und die Sorge für deren Unterhalt ist Sache der Kantone; die daherigen Kosten werden jedoch den Kantonen vom Bunde nach einer von ihm aufzustellenden Norm vergütet.

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Bundesgesezgebung weiter entwikelt werden.

3) Der Bund überwacht den Militärunterricht der Infanterie und der Scharfschüzen, sowie die Anschaffung, den Bau und Unterhalt des Kriegszeugs, welches die Kantone zum Bundesheere zu liefern haben.

4) Die Militärverordnungen der Kantone dürfen nichts enthalten, was der eidgenössischen Militärorganisation und den den Kantonen obliegenden bundesmässigen Verpflichtungen entgegen ist, und müssen zu diesfälliger Prüfung dem Bundesrathe vorgelegt werden.

5) Alle Truppenabtheilungen im eidgenössischen Dienste führen ausschliesslich die eidgenössiche Fahne.

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Art. 21.

Soweit nicht militärische Gründe entgegenstehen, sollen die Truppenkörper aus der Mannschaft desselben Kantons gebildet werden.

Die Zusammensezung dieser Truppenkörper, die Fürsorge für die Erhaltung ihres Bestandes und die Ernennung und Beförderung ihrer Offiziere ist, unter Beachtung der durch den Bund aufzustellenden allgemeinen Vorschriften, Sache der Kantone.

Art. 22.

Der Bund hat das Recht, die in den Kantonen vorhandenen Waffenpläze und die zu militärischen Zweken bestimmten Gebäude sammt Zubehörden gegen billige Entschädigung zur Benuzung oder als Eigenthum zu übernehmen.

Die Normen für die daherige Entschädigung werden durch die Bundesgesezgebung geregelt.

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Jezige Bundesverfassung.

Art. 21.

Dem Bunde steht das Recht zu, im Interesse der Eidgenossenschaft oder eines grossen Theiles derselben, auf Kosten der Eidgenossenschaft öffentliche Werke zu errichten oder die Errichtung derselben zu unterstüzen.

Zu diesem Zweke ist er auch befugt, gegen volle Entschädigung das Recht der Expropriation geltend zu machen. Die nähern Bestimmungen hierüber bleiben der Bundesgesezgebung vorbehalten.

Die Bundesversammlung kann die Errichtung öffentlicher Werke untersagen, welche die militärischen Interessen der Eidgenossenschaft verlezen.

Revidirte Bundesverfassung.

Art. 23.

Gleich alt Art. 21.

Art. 24.

Der Bund hat das Recht der Oberaufsicht über die Wasserbau- und Forstpolizei im Hochgebirge.

Er wird die Korrektion und Verbauung der Wildwasser, sowie die Aufforstung ihrer Quellengebiete unterstüzen und die nöthigen schüzenden Bestimmungen zur Erhaltung dieser Werke und der schon vorhandenen Waldungen aufstellen.

Art. 25.

Der Bund ist befugt, gesezliche Bestimmungen über die Ausübung der Fischerei und Jagd, namentlich zur Erhaltung des Hochwildes, sowie zum Schuze der für die Land- und Forstwirthschaft nüzlichen Vögel zu treffen.

Art. 26.

Die Gesezgebung über den Bau und Betrieb der Eisenbahnen ist Bundessache.

Jezige Bundesverfassung.	Revidirte Bundesverfassung.
Art. 22.	Art. 27.
Der Bund ist befugt, eine Universität und eine polytechnische Schule zu errichten.	Der Bund ist befugt, ausser der bestehenden polytechnischen Schule, eine Universität und andere höhere Unterrichtsanstalten zu errichten oder solche Anstalten zu unterstüzen. Die Kantone sorgen für genügenden Primarunterricht, welcher ausschliesslich unter staatlicher Leitung stehen soll. Derselbe ist obligatorisch und in den öffentlichen Schulen unentgeltlich. Die öffentlichen Schulen sollen von den Angehörigen aller Bekenntnisse ohne Beeinträchtigung ihrer Glaubens- und Gewissensfreiheit besucht werden können. Gegen Kantone, welche diesen Verpflichtungen nicht nachkommen, wird der Bund die nöthigen Verfügungen treffen.
Art. 23.	Art. 28.
Das Zollwesen ist Sache des Bundes.	Das Zollwesen ist Sache des Bundes. Derselbe hat das Recht, Ein- und Ausfuhrzölle zu erheben.
Art. 24.	Alt Art. 24 fällt weg.
Dem Bunde steht das Recht zu, die von der Tagsazung bewilligten oder anerkannten Land- und Wasserzölle, Weg- und Brükengelder, verbindliche Kaufhaus- und andere Gebühren dieser Art, mögen dieselben von Kantonen, Gemeinden, Korporationen oder Privaten bezogen werden, gegen Entschädigung ganz oder theilweise aufzuheben. Diejenigen Zölle und Weggelder, welche auf dem Transit lasten, sollen jedenfalls im ganzen Umfange der Eidgenossenschaft und zwar gleichzeitig eingelöst werden.	

Jezige Bundesverfassung.

Die Eidgenossenschaft hat das Recht, an der schweizerischen Grenze Eingangs-, Ausgangs- und Durchgangszölle zu erheben.

Sie ist berechtigt, gegenwärtig für das Zollwesen bestimmte Gebäulichkeiten an der schweizerischen Grenze gegen Entschädigung entweder als Eigenthum oder miethweise zur Benuzung zu übernehmen.

Art. 25.

Bei Erhebung der Zölle sollen folgende Grundsäze beachtet werden:

1) Eingangsgebühren:

a. Die für die inländische Industrie erforderlichen Stoffe sind im Zolltarife möglichst gering zu taxiren;

b. Ebenso die zum nothwendigen Lebensbedarf erforderlichen Gegenstände.

c. Die Gegenstände des Luxus unterliegen der höchsten Taxe.

2) Durchgangsgebühren, und in der Regel auch die Ausgangsgebühren, sind möglichst mässig festzusezen.

3) Durch die Zollgesezgebung sind zur Sicherung des Grenz- und Marktverkehrs geeignete Bestimmungen zu treffen.

Dem Bunde bleibt immerhin das Recht vorbehalten, unter ausserordentlichen Umständen, in Abweichung von vorstehenden Bestimmungen, vorübergehend besondere Maassnahmen zu treffen.

Art. 26.

Der Ertrag der Eingangs-, Ausgangs- und Durchgangszölle wird folgendermaassen verwendet:

Revidirte Bundesverfassung.

Art. 29.

Bei Erhebung der Zölle sollen folgende Grundsäze beachtet werden:

1) Eingangsgebühren:

a. Die für die inländische Industrie und Landwirthschaft erforderlichen Stoffe sind im Zolltarife möglichst gering zu taxiren;

b. Ebenso die zum nöthigen Lebensbedarf erforderlichen Gegenstände.

c. Die Gegenstände des Luxus unterliegen den höchsten Taxen.

Diese Grundsäze sind, wenn nicht zwingende Gründe entgegenstehen, auch bei Abschliessung von Handelsverträgen mit dem Auslande zu befolgen.

2) Die Ausgangsgebühren sind möglichst mässig festzusezen.

3) Durch die Zollgesezgebung sind zur Sicherung des Grenz- und Marktverkehrs geeignete Bestimmungen zu treffen. Dem Bunde bleibt immerhin das Recht vorbehalten, unter ausserordentlichen Umständen, in Abweichung von vorstehenden Bestimmungen, vorübergehend besondere Massnahmen zu treffen.

Art. 30.

Der Ertrag der Zölle fällt in die Bundeskasse.

Jezige Bundesverfassung.	Revidirte Bundesverfassung.
a. Jeder Kanton erhält 4 Bazen auf den Kopf nach dem Maassstab der Gesammtbevölkerung, welche nach der Volkszählung von 1838 berechnet wird. b. Wenn ein Kanton hierdurch für die nach Art. 24 aufgehobenen Gebühren nicht hinlänglich gedekt wird, so hat er noch so viel zu beziehen, als erforderlich ist, um ihn für dieselben Gebühren nach dem Durchschnitt des Reinertrages der fünf Jahre 1842 bis und mit 1846 zu entschädigen. c. Die Mehreinnahme fällt in die Bundeskasse.	Die den Kantonen bisher bezahlten Entschädigungen für die losgekauften Zölle, Weg- und Brükengelder, Kaufhaus- und andern Gebühren dieser Art fallen weg. Ausnahmsweise erhalten die Kantone Uri, Graubünden, Tessin und Wallis, mit Rüksicht auf ihre internationalen Alpenstrassen, eine jährliche Entschädigung, welche, in Würdigung aller Verhältnisse, festgestellt wird, wie folgt: Für Uri . . . Fr. 80,000 „ Graubünden . „ 200,000 „ Tessin . . „ 200,000 „ Wallis . . „ 50,000. Für Besorgung des Schneebruches auf dem St. Gotthard erhalten die Kantone Uri und Tessin eine jährliche Entschädigung von zusammen Franken 40,000 für so lange, als die Strasse über den Bergpass nicht durch eine Eisenbahn ersezt sein wird.
Art. 27. Wenn Zölle, Weg- und Brükengelder für Tilgung eines Baukapitals oder eines Theiles desselben bewilligt worden sind, so hört der Bezug derselben oder die Entschädigung auf, sobald das Kapital oder der betreffende Theil nebst Zinsen gedekt ist.	Alt Art. 27 fällt weg.
Art. 28. Den in bereits abgeschlossenen Eisenbahnverträgen über Transitgebühren enthaltenen Verfügungen soll durch gegenwärtige Bestimmungen kein Abbruch geschehen. Dagegen tritt	Alt Art. 28 fällt weg.

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der Bund in die durch solche Verträge den Kantonen in Beziehung auf die Transitgebühren vorbehaltenen Rechte.

Art. 29.

Für Lebensmittel, Vieh- und Kaufmannswaaren, Landes- und Gewerbserzeugnisse jeder Art sind freier Kauf und Verkauf, freie Ein-, Aus- und Durchfuhr von einem Kanton in den andern gewährleistet.

Vorbehalten sind:

a. In Beziehung auf Kauf und Verkauf das Salz- und Pulverregal.

b. Polizeiliche Verfügungen der Kantone über die Ausübung von Handel und Gewerbe und über die Benuzung der Strassen.

c. Verfügungen gegen schädlichen Vorkauf.

d. Vorübergehende sanitätspolizeiliche Maassregeln bei Seuchen.

Die in litt. b und c bezeichneten Verfügungen müssen die Kantonsbürger und die Schweizerbürger anderer Kantone gleich behandeln. Sie sind dem Bundesrathe zur Prüfung vorzulegen und dürfen nicht vollzogen werden, ehe sie die Genehmigung desselben erhalten haben.

e. Die von der Tagsazung bewilligten oder anerkannten Gebühren, welche der Bund nicht aufgehoben hat (Art. 24 und 31).

f. Die Konsumogebühren auf Wein und andern geistigen Getränken, nach Vorschrift von Art. 32.

NB. Art. 30, 31 und 32 sind umgestellt.

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Art. 31.

Die Freiheit des Handels und der Gewerbe ist im ganzen Umfange der Eidgenossenschaft gewährleistet.

Vorbehalten sind:

a. Das Salz- und Pulverregal, die eidgenössischen Zölle, die Eingangsgebühren von Wein und geistigen Getränken, sowie andere vom Bunde ausdrüklich anerkannte Verbrauchssteuern, nach Maassgabe des Art. 32.

b. Sanitätspolizeiliche Maassregeln gegen Epidemien und Viehseuchen.

c. Verfügungen über Ausübung von Handel und Gewerben, über Besteuerung des Gewerbsbetriebes und über die Benuzung der Strassen.

Diese Verfügungen dürfen den Grundsaz der Handels- und Gewerbefreiheit selbst nicht beeinträchtigen.

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Art. 32.

Die Kantone sind befugt, ausser den nach Art. 29 litt. e vorbehaltenen Berechtigungen, von Wein und andern geistigen Getränken Konsumogebühren zu erheben, jedoch unter folgenden Beschränkungen:

a. Bei dem Bezug derselben soll der Transit in keiner Weise belästigt und der Verkehr überhaupt so wenig als möglich gehemmt und mit keinen andern Gebühren belegt werden.

b) Werden die für den Verbrauch eingeführten Gegenstände wieder aus dem Kanton ausgeführt, so sind die bezahlten Konsumogebühren ohne weitere Belästigung zurükzuerstatten.

c. Die Erzeugnisse schweizerischen Ursprungs sind mit niedrigern Gebühren zu belegen als diejenigen des Auslandes.

d. Konsumogebühren auf Wein und andern geistigen Getränken schweizerischen Ursprungs dürfen da, wo solche schon bestehen, nicht erhöht, und in Kantonen, welche noch keine beziehen, nicht eingeführt werden.

e. Die Geseze und Verordnungen der Kantone über den Bezug der Konsumogebühren sind der Bundesbehörde vor Vollziehung derselben zur Gutheissung vorzulegen, damit die Nichtbeachtung vorstehender Grundsäze verhindert werden kann.

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Art. 32.

Die Kantone sind befugt, die im Art. 31 litt. a erwähnten Eingangsgebühren von Wein und andern geistigen Getränken unter folgenden Beschränkungen zu erheben:

a. Bei dem Bezug derselben soll der Transit in keiner Weise belästigt und der Verkehr überhaupt so wenig als möglich gehemmt und mit keinen andern Gebühren belegt werden.

b. Werden die für den Verbrauch eingeführten Gegenstände wieder aus dem Kanton ausgeführt, so sind die bezahlten Eingangsgebühren ohne weitere Belästigung zurükzuerstatten.

c. Die Erzeugnisse schweizerischen Ursprungs sind mit niedrigern Gebühren zu belegen als diejenigen des Auslandes.

d. Eingangsgebühren auf Wein und andern geistigen Getränken schweizerischen Ursprungs dürfen da, wo solche schon bestehen, nicht erhöht, und in Kantonen, welche noch keine beziehen, nicht eingeführt werden.

e. Die Geseze und Verordnungen der Kantone über den Bezug der Eingangsgebühren sind der Bundesbehörde vor Vollziehung derselben zur Gutheissung vorzulegen, damit die Nichtbeachtung vorstehender Grundsäze verhindert werden kann.

Mit Ablauf des Jahres 1890 sollen alle Eingangsgebühren, welche dermalen von den Kantonen erhoben werden, sowie ähnliche von einzelnen

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Art. 30.

Der Bundesgesezgebung bleibt vorbehalten, hinsichtlich der Abschaffung bestehender Vorrechte in Bezug auf Transport von Personen und Waaren jeder Art zwischen den Kantonen und im Innern derselben auf dem Wasser und auf dem Lande, die nöthigen Verfügungen zu treffen, soweit die Eidgenossenschaft hiebei ein Interesse hat.

Art. 31.

Der Bezug der im Art. 29 litt. e bezeichneten Gebühren steht unter der Aufsicht des Bundesrathes. Sie dürfen nicht erhöht und der Bezug derselben darf ohne Genehmigung der Bundesversammlung, wenn er auf eine bestimmte Zeit beschränkt war, nicht verlängert werden.

Die Kantone dürfen weder Zölle, Weg- noch Brükengelder unter irgend welchem Namen neu einführen. Von der Bundesversammlung können jedoch auf bestimmte Zeit solche Gebühren bewilligt werden, um die Errichtung öffentlicher Werke zu unterstüzen, welche im Sinne des Art. 21 von allgemeinem Interesse für den

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Gemeinden bezogene Gebühren ohne Entschädigung dahinfallen.

Art. 33.

Den Kantonen bleibt es anheimgestellt, die Ausübung der wissenschaftlichen Berufsarten von einem Ausweise der Befähigung abhängig zu machen.

Auf dem Wege der Bundesgesezgebung ist dafür zu sorgen, dass derartige Ausweise für die ganze Eidgenossenschaft gültig erworben werden können.

Alt Art. 30 fällt weg.

Alt Art. 31 fällt weg.

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Verkehr sind und ohne solche Bewilligung nicht zu Stande kommen könnten.

Art. 33.

Das Postwesen im ganzen Umfange der Eidgenossenschaft wird vom Bunde übernommen unter folgenden Vorschriften:

1) Die gegenwärtig bestehenden Postverbindungen dürfen im Ganzen ohne Zustimmung der betheiligten Kantone nicht vermindert werden.

2) Die Tarife werden im ganzen Gebiete der Eidgenossenschaft nach

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Art. 34.

Der Bund ist befugt, einheitliche Bestimmungen über die Verwendung von Kindern in den Fabriken und über die Dauer der Arbeit erwachsener Personen in denselben aufzustellen. Ebenso ist er berechtigt, Vorschriften zum Schuze der Arbeiter gegen einen, die Gesundheit und Sicherheit gefährdenden Gewerbebetrieb zu erlassen.

Der Geschäftsbetrieb von Auswanderungsagenturen und von Privatunternehmungen im Gebiete des Versicherungswesens unterliegt der Aufsicht und Gesezgebung des Bundes.

Art. 35.

Die Errichtung von Spielbanken ist untersagt. Die zur Zeit bestehenden Spielhäuser müssen am 31. Dezember 1877 geschlossen werden.

Allfällig seit dem Anfange des Jahres 1871 ertheilte oder erneuerte Konzessionen werden als ungültig erklärt.

Der Bund kann auch in Beziehung auf die Lotterien geeignete Maassnahmen treffen.

Art. 36.

Das Post- und Telegraphenwesen im ganzen Umfange der Eidgenossenschaft ist Bundessache.

Der Ertrag der Post- und Telegraphenverwaltung fällt in die eidgenössische Kasse.

Die Tarife werden im ganzen Gebiete der Eidgenossenschaft nach den gleichen, möglichst billigen Grundsäzen bestimmt.

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den gleichen, möglichst billigen Grundsäzen bestimmt.

3) Die Unverlezbarkeit des Postgeheimnisses ist gewährleistet.

4) Für Abtretung des Postregals leistet der Bund Entschädigung, und zwar nach folgenden nähern Bestimmungen:

a. Die Kantone erhalten jährlich die Durchschnittssumme des reinen Ertrages, den sie in den drei Jahren 1844, 1845 und 1846 vom Postwesen auf ihrem Kantonalgebiete bezogen haben.

Wenn jedoch der reine Ertrag, welchen der Bund vom Postwesen bezieht, für Bestreitung dieser Entschädigung nicht hinreicht, so wird den Kantonen das Mangelnde nach Verhältniss der festgesezten Durchschnittssummen in Abzug gebracht.

b. Wenn ein Kanton vom Postwesen unmittelbar noch gar nichts, oder in Folge eines mit einem andern Kanton abgeschlossenen Pachtvertrags bedeutend weniger bezogen hat, als die Ausübung des Postregals auf seinem Gebiete demjenigen Kanton, der dasselbe gepachtet hatte, erweislichermaassen rein ertragen hat, so sollen solche Verhältnisse bei Ausmittlung der Entschädigungssumme billige Berüksichtigung finden.

c. Wo die Ausübung des Postregals an Privaten abgetreten worden ist, übernimmt der Bund die diesfällige Entschädigung.

d. Der Bund ist berechtigt und

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Die Unverlezlichkeit des Post- und Telegraphengeheimnisses ist gewährleistet.

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verpflichtet, das zum Postwesen gehörige Material, soweit dasselbe zum Gebrauche tauglich und erforderlich ist, gegen eine den Eigenthümern abzureichende billige Entschädigung zu übernehmen.

e. Die eidgenössische Verwaltung ist berechtigt, die gegenwärtig für das Postwesen bestimmten Gebäulichkeiten gegen Entschädigung entweder als Eigenthum oder aber nur miethweise zur Benuzung zu übernehmen.

Art. 34.

Bei der Verwaltung des Zoll- und Postwesens sind die Angestellten grösstentheils aus den Einwohnern derjenigen Kantone zu wählen, für welche sie bestimmt sind.

Art. 35.

Der Bund übt die Oberaufsicht über die Strassen und Brüken, an deren Erhaltung die Eidgenossenschaft ein Interesse hat.

Die nach Artikel 26 und 33 den Kantonen für Zölle und Posten zukommenden Summen werden von der Bundesbehörde zurükbehalten, wenn diese Strassen und Brüken von den betreffenden Kantonen, Korporationen oder Privaten nicht in gehörigem Zustand unterhalten werden.

Art. 36.

Dem Bunde steht die Ausübung aller im Münzregale begriffenen Rechte zu.

Die Münzprägung durch die Kantone hört auf und geht einzig vom Bunde aus.

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Alt Art. 34 gestrichen.

Art. 37.

Der Bund übt die Oberaufsicht über die Strassen und Brüken, an deren Erhaltung die Eidgenossenschaft ein Interesse hat.

Die Summen, welche den im Art. 30 bezeichneten Kantonen mit Rüksicht auf ihre internationalen Alpenstrassen zukommen, werden von der Bundesbehörde zurükbehalten, wenn diese Strassen von den betreffenden Kantonen nicht in gehörigem Zustande unterhalten werden.

Art. 38.

Dem Bunde steht die Ausübung aller im Münzregale begriffenen Rechte zu.

Die Münzprägung geht einzig vom Bunde aus.

Er bestimmt den Münzfuss und er-

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Es ist Sache der Bundesgesezgebung, den Münzfuss festzusezen, die vorhandenen Münzsorten zu tarifiren und die nähern Bestimmungen zu treffen, nach welchen die Kantone verpflichtet sind, von den von ihnen geprägten Münzen einschmelzen oder umprägen zu lassen.

Art. 37.

Der Bund wird auf die Grundlagen des bestehenden eidgenössischen Konkordates für die ganze Eidgenossenschaft gleiches Maass und Gewicht einführen.

Art. 38.

Fabrikation und Verkauf des Schiesspulvers im Umfange der Eidgenossenschaft stehen ausschliesslich dem Bunde zu.

Art. 39.

Die Ausgaben des Bundes werden bestritten:

a. aus den Zinsen der eidgenössischen Kriegsfonds;
b. aus dem Ertrag der schweizerischen Grenzzölle;

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lässt allfällige Vorschriften über die Tarifirung fremder Münzsorten.

Art. 39.

Der Bund ist befugt, im Wege der Gesezgebung allgemeine Vorschriften über die Ausgabe und die Einlösung von Banknoten zu erlassen.

Er darf jedoch keinerlei Monopol für die Ausgabe von Banknoten aufstellen und ebenso keine Rechtsverbindlichkeit für die Annahme derselben aussprechen.

Art. 40.

Die Festsezung von Maass und Gewicht ist Bundessache.

Die Ausführung der bezüglichen Geseze geschieht durch die Kantone unter Aufsicht des Bundes.

Art. 41.

Fabrikation und Verkauf des Schiesspulvers im Umfange der Eidgenossenschaft stehen ausschliesslich dem Bunde zu.

Als Schiesspulver nicht brauchbare Sprengfabrikate sind im Regal nicht inbegriffen.

Art. 42.

Die Ausgaben des Bundes werden bestritten:

a. aus dem Ertrag des Bundesvermögens;
b. aus dem Ertrag der schweizerischen Grenzzölle;

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c. aus dem Ertrag der Postverwaltung;
d. aus dem Ertrag der Pulververwaltung;
e. aus Beiträgen der Kantone, welche jedoch nur in Folge von Beschlüssen der Bundesversammlung erhoben werden können.

Solche Beiträge sind von den Kantonen nach Verhältniss der Geldscala zu leisten, welche alle zwanzig Jahre einer Revision zu unterwerfen ist. Bei einer solchen Revision sollen theils die Bevölkerung, theils die Vermögens- und Erwerbsverhältnisse der Kantone zur Grundlage dienen.

Art. 40.

Es soll jederzeit wenigstens der Betrag des doppelten Geldkontingentes für Bestreitung von Militärkosten bei eidgenössischen Aufgeboten baar in der Bundeskasse liegen.

NB. Artikel 41, 42, 43 sind umgestellt.

Art. 42.

Jeder Kantonsbürger ist Schweizerbürger. Als solcher kann er in eidgenössischen und kantonalen Angelegenheiten die politischen Rechte in jedem Kanton ausüben, in welchem er niedergelassen ist. Er kann aber diese Rechte nur unter den nämlichen Bedingungen ausüben, wie die Bürger des Kantons, und in Beziehung auf die kantonalen Angelegenheiten erst nach einem längern Aufenthalte, dessen Dauer durch die Kantonalgesezgebung bestimmt wird, jedoch nicht

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c. aus dem Ertrag der Post- und Telegraphenverwaltung;
d. aus dem Ertrag der Pulververwaltung;
e. aus der Hälfte des Brutto-Ertrages der von den Kantonen bezogenen Militärpflichtersazsteuern;
f. aus den Beiträgen der Kantone, deren nähere Regulirung, vorzugsweise nach Maassgabe der Steuerkraft derselben, der Bundesgesezgebung vorbehalten ist.

Alt Art. 40 gestrichen.

Art. 43.

Jeder Kantonsbürger ist Schweizerbürger.

Als solcher kann er bei allen eidgenössischen Wahlen und Abstimmungen an seinem Wohnsize Antheil nehmen, nachdem er sich über seine Stimmberechtigung gehörig ausgewiesen hat.

Niemand darf in mehr als einem Kanton politische Rechte ausüben.

Der niedergelassene Schweizerbürger geniesst an seinem Wohnsize alle Rechte der Kantonsbürger und mit

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über zwei Jahre ausgedehnt werden darf.

Niemand darf in mehr als einem Kanton politische Rechte ausüben.

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diesen auch alle Rechte der Gemeindebürger. Der Mitantheil an Bürger- und Korporationsgütern, sowie das Stimmrecht in rein bürgerlichen Angelegenheiten sind jedoch hievon ausgenommen, es wäre denn, dass die Kantonalgesezgebung etwas Anderes bestimmen würde.

In kantonalen und Gemeindeangelegenheiten erwirbt er das Stimmrecht nach einer Niederlassung von drei Monaten.

Die kantonalen Geseze über die Niederlassung und das Stimmrecht der Niedergelassenen in den Gemeinden unterliegen der Genehmigung des Bundesrathes.

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Art. 43.

Kein Kanton darf einen Bürger des Bürgerrechtes verlustig erklären.

Ausländern darf kein Kanton das Bürgerrecht ertheilen, wenn sie nicht aus dem frühern Staatsverband entlassen werden.

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Art. 44.

Kein Kanton darf einen Kantonsbürger aus seinem Gebiete verbannen (verweisen) oder ihn des Bürgerrechtes verlustig erklären.

Die Bedingungen für die Ertheilung des Bürgerrechtes an Ausländer, sowie diejenigen, unter welchen ein Schweizer zum Zweke der Erwerbung eines ausländischen Bürgerrechtes auf sein Bürgerrecht verzichten kann, werden durch die Bundesgesezgebung geordnet.

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Art. 41.

Der Bund gewährleistet allen Schweizern das Recht der freien Niederlassung im ganzen Umfange der Eidgenossenschaft, nach folgenden nähern Bestimmungen:

1) Keinem Schweizer kann die Niederlassung in irgend einem Kantone verweigert werden, wenn er folgende Ausweisschriften besizt:

a. einen Heimatschein oder eine

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Art. 45.

Jeder Schweizer hat das Recht, sich innerhalb des schweizerischen Gebietes an jedem Orte niederzulassen, wenn er einen Heimatschein oder eine andere gleichbedeutende Ausweisschrift besizt.

Ausnahmsweise kann die Niederlassung denjenigen, welche in Folge eines strafgerichtlichen Urtheils nicht im Besize der bürgerlichen Rechte

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andere gleichbedeutende Ausweisschrift;

b. ein Zeugniss sittlicher Aufführung;

c. eine Bescheinigung, dass er in bürgerlichen Rechten und Ehren stehe.

2) Der Niedergelassene darf von Seite des die Niederlassung gestattenden Kantons mit keiner Bürgschaft und mit keinen andern besondern Lasten behufs der Niederlassung belegt werden.

3) Ein Bundesgesez wird die Dauer der Niederlassungsbewilligung, sowie das Maximum der zur Erlangung derselben an den Kanton zu entrichtenden Kanzleigebühren bestimmen.

4) Der Niedergelassene geniesst alle Rechte der Bürger des Kantons, in welchem er sich niedergelassen hat, mit Ausnahme des Stimmrechts in Gemeindeangelegenheiten und des Mitantheils an Gemeinde- und Korporationsgütern. Insbesondere wird ihm freie Gewerbsausübung und das Recht der Erwerbung und Veräusserung von Liegenschaften zugesichert, nach Maassgabe der Geseze und Verordnungen der Kantone, welche in allen diesen Beziehungen den Niedergelassenen den eigenen Bürgern gleichhalten sollen.

5) Den Niedergelassenen anderer Kantone können von Seite der Gemeinde keine grössern Leistungen an Gemeindelasten auferlegt werden, als den Niedergelassenen des eigenen Kantons.

6) Der Niedergelassene kann aus dem Kanton, in welchem er niedergelassen ist, weggewiesen werden:

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und Ehren sind, verweigert oder entzogen werden.

Weiterhin kann die Niederlassung denjenigen entzogen werden, welche wegen schwerer Vergehen wiederholt gerichtlich bestraft worden sind, sowie denjenigen, welche dauernd der öffentlichen Wohlthätigkeit zur Last fallen und deren Heimatgemeinde, beziehungsweise Heimatkanton, eine angemessene Unterstüzung troz amtlicher Aufforderung nicht gewährt.

In Kantonen, wo die örtliche Armenpflege besteht, darf die Gestattung der Niederlassung für Kantonsangehörige an die Bedingung geknüpft werden, dass dieselben arbeitsfähig und an ihrem bisherigen Wohnorte im Heimatkanton nicht bereits in dauernder Weise der öffentlichen Wohlthätigkeit zur Last gefallen seien.

Jede Ausweisung wegen Verarmung muss von Seite der Regierung des Niederlassungskantons genehmigt und der heimatlichen Regierung zum voraus angezeigt werden.

Der niedergelassene Schweizerbürger darf von Seite des die Niederlassung gestattenden Kantons mit keiner Bürgschaft und mit keinen andern besondern Lasten behufs der Niederlassung belegt werden. Ebenso darf die Gemeinde, in welcher er seinen Wohnsiz nimmt, ihn nicht anders besteuern als den Ortsbürger.

Ein Bundesgesez wird das Maximum der für die Niederlassungsbewilligung zu entrichtenden Kanzleigebühr bestimmen.

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a. durch gerichtliches Strafurtheil;
b. durch Verfügung der Polizeibehörden, wenn er die bürgerlichen Rechte und Ehren verloren hat, oder sich eines unsittlichen Lebenswandels schuldig macht, oder durch Verarmung zur Last fällt, oder schon oft wegen Uebertretung polizeilicher Vorschriften bestraft werden musste.

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Art. 46.

In Beziehung auf die civilrechtlichen Verhältnisse stehen die Niedergelassenen in der Regel unter dem Rechte und der Gesezgebung des Wohnsizes.

Die Bundesgesezgebung wird über die Anwendung dieses Grundsazes, sowie gegen Doppelbesteurung die erforderlichen Bestimmungen treffen.

Art. 47.

Ein Bundesgesez wird den Unterschied zwischen Niederlassung und Aufenthalt bestimmen und dabei gleichzeitig über die politischen und bürgerlichen Rechte der schweizerischen Aufenthalter die nähern Vorschriften aufstellen.

Art. 48.

Ein Bundesgesez wird über die Kosten der Verpflegung und Beerdigung armer Angehöriger eines Kantons, welche in einem andern Kanton krank werden oder sterben, die nöthigen Bestimmungen treffen.

Art. 49.

Die Glaubens- und Gewissensfreiheit ist unverlezlich.

Niemand darf zur Theilnahme an einer Religionsgenossenschaft, oder an

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Art. 44.

Die freie Ausübung des Gottesdienstes ist den anerkannten christlichen Konfessionen im ganzen Umfange der Eidgenossenschaft gewährleistet.

Den Kantonen sowie dem Bunde bleibt vorbehalten, für Handhabung der öffentlichen Ordnung und des Friedens unter den Konfessionen die geeigneten Maassnahmen zu treffen.

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einem religiösen Unterricht, oder zur Vornahme einer religiösen Handlung gezwungen, oder wegen Glaubensansichten mit Strafen irgend welcher Art belegt werden.

Ueber die religiöse Erziehung der Kinder bis zum erfüllten 16. Altersjahr verfügt im Sinne vorstehender Grundsäze der Inhaber der väterlichen oder vormundschaftlichen Gewalt.

Die Ausübung bürgerlicher oder politischer Rechte darf durch keinerlei Vorschriften oder Bedingungen kirchlicher oder religiöser Natur beschränkt werden.

Die Glaubensansichten entbinden nicht von der Erfüllung der bürgerlichen Pflichten.

Niemand ist gehalten, Steuern zu bezahlen, welche speciell für eigentliche Kultuszweke einer Religionsgenossenschaft, der er nicht angehört, auferlegt werden. Die nähere Ausführung dieses Grundsazes ist der Bundesgesezgebung vorbehalten.

Art. 50.

Die freie Ausübung gottesdienstlicher Handlungen ist innerhalb der Schranken der Sittlichkeit und der öffentlichen Ordnung gewährleistet.

Den Kantonen sowie dem Bunde bleibt vorbehalten, zur Handhabung der öffentlichen Ordnung und des Friedens unter den Angehörigen der verschiedenen Religionsgenossenschaften, sowie gegen Eingriffe kirchlicher Behörden in die Rechte der Bürger und des Staates die geeigneten Maassnahmen zu treffen.

Anstände aus dem öffentlichen oder Privatrechte, welche über die Bildung

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oder Trennung von Religionsgenossenschaften entstehen, können auf dem Wege der Beschwerdeführung der Entscheidung der zuständigen Bundesbehörden unterstellt werden.

Die Errichtung von Bisthümern auf schweizerischem Gebiete unterliegt der Genehmigung des Bundes.

Art. 51.

Der Orden der Jesuiten und die ihm affiliirten Gesellschaften dürfen in keinem Theil der Schweiz Aufnahme finden, und es ist ihren Gliedern jede Wirksamkeit in Kirche und Schule untersagt.

Dieses Gebot kann durch Bundesbeschluss auch auf andere geistliche Orden ausgedehnt werden, deren Wirksamkeit staatsgefährlich ist oder den Frieden der Konfessionen stört.

Art. 52.

Die Errichtung neuer und die Wiederherstellung aufgehobener Klöster oder religiöser Orden ist unzulässig.

Art. 53.

Die Feststellung und Beurkundung des Civilstandes ist Sache der bürgerlichen Behörden. Die Bundesgesezgebung wird hierüber die nähern Bestimmungen treffen.

Die Verfügung über die Begräbnisspläze steht den bürgerlichen Behörden zu. Sie haben dafür zu sorgen, dass jeder Verstorbene schiklich beerdigt werden kann.

Art. 54.

Das Recht zur Ehe steht unter dem Schuze des Bundes.

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	Dieses Recht darf weder aus kirchlichen oder ökonomischen Rüksichten, noch wegen bisherigen Verhaltens oder aus andern polizeilichen Gründen beschränkt werden. Die in einem Kantone oder im Auslande nach der dort geltenden Gesezgebung abgeschlossene Ehe soll im Gebiete der Eidgenossenschaft als Ehe anerkannt werden. Durch den Abschluss der Ehe erwirbt die Frau das Heimatrecht des Mannes. Durch die nachfolgende Ehe der Eltern werden vorehelich geborne Kinder derselben legitimirt. Jede Erhebung von Brauteinzugsgebühren oder andern ähnlichen Abgaben ist unzulässig.
Art. 45. Die Pressfreiheit ist gewährleistet. Ueber den Missbrauch derselben trifft die Kantonalgesezgebung die erforderlichen Bestimmungen, welche jedoch der Genehmigung des Bundesrathes bedürfen. Dem Bunde steht das Recht zu, Strafbestimmungen gegen den Missbrauch der Presse zu erlassen, der gegen die Eidgenossenschaft und ihre Behörden gerichtet ist.	Art. 55. Gleich alt Art. 45.
Art. 46. Die Bürger haben das Recht, Vereine zu bilden, sofern solche weder in ihrem Zwek, noch in den dafür bestimmten Mitteln rechtswidrig oder staatsgefährlich sind. Ueber den Missbrauch dieses Rechtes trifft die Kantonalgesezgebung die erforderlichen Bestimmungen.	Art. 56. Gleich alt Art. 46.

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Jezige Bundesverfassung.	Revidirte Bundesverfassung.
Art. 47.	Art. 57.
Das Petitionsrecht ist gewährleistet.	Gleich alt Art. 47.
NB. Artikel 48 bis 59 sind umgestellt.	
Art. 53.	Art. 58.
Niemand darf seinem verfassungsmässigen Gerichtsstand entzogen, und es dürfen daher keine Ausnahmsgerichte eingeführt werden.	Niemand darf seinem verfassungsmässigen Richter entzogen, und es dürfen daher keine Ausnahmsgerichte eingeführt werden. Die geistliche Gerichtsbarkeit ist abgeschafft.
Art. 50.	Art. 59.
Der aufrechtstehende schweizerische Schuldner, welcher einen festen Wohnsiz hat, muss für persönliche Ansprachen vor dem Richter seines Wohnortes gesucht, und es darf daher für Forderungen auf das Vermögen eines solchen ausser dem Kanton, in welchem er wohnt, kein Arrest gelegt werden.	Der aufrechtstehende Schuldner, welcher in der Schweiz einen festen Wohnsiz hat, muss für persönliche Ansprachen vor dem Richter seines Wohnortes gesucht, und es darf daher für Forderungen auf das Vermögen eines solchen ausser dem Kanton, in welchem er wohnt, kein Arrest gelegt werden. Vorbehalten bleiben mit Bezug auf Ausländer die Bestimmungen bezüglicher Staatsverträge. Der Schuldverhaft ist abgeschafft.
Art. 48.	Art. 60.
Sämmtliche Kantone sind verpflichtet, alle Schweizerbürger in der Gesezgebung sowohl als im gerichtlichen Verfahren den Bürgern des eigenen Kantons gleichzuhalten.	Gleich alt Art. 48.
Art. 49.	Art. 61.
Die rechtskräftigen Civilurtheile, die in einem Kanton gefällt sind, sollen in der ganzen Schweiz vollzogen werden können.	Gleich alt Art. 49.

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Art. 51.

Alle Abzugsrechte im Innern der Schweiz, sowie die Zugrechte von Bürgern des einen Kantons gegen Bürger anderer Kantone sind abgeschafft.

Art. 52.

Gegen die auswärtigen Staaten besteht Freizügigkeit, unter Vorbehalt des Gegenrechtes.

Art. 54.

Wegen politischer Vergehen darf kein Todesurtheil gefällt werden.

Art. 55.

Ein Bundesgesez wird über die Auslieferung der Angeklagten von

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Art. 62.

Gleich alt Art. 51.

Art. 63.

Gleich alt Art. 52.

Art. 64.

Dem Bunde steht die Gesezgebung zu:
- über die persönliche Handlungsfähigkeit,
- über alle auf den Handel und Mobiliarverkehr bezüglichen Rechtsverhältnisse (Obligationenrecht, mit Inbegriff des Handels- und Wechselrechts),
- über das Urheberrecht an Werken der Literatur und Kunst,
- über das Betreibungsverfahren und das Konkursrecht.

Die Rechtsprechung selbst verbleibt den Kantonen, mit Vorbehalt der dem Bundesgerichte eingeräumten Kompetenzen.

Art. 65.

Die Todesstrafe ist abgeschafft.

Die Bestimmungen des Militärstrafgesezes bleiben jedoch in Kriegszeiten vorbehalten.

Körperliche Strafen sind untersagt.

Art. 66.

Die Bundesgesezgebung bestimmt die Schranken, innerhalb welcher ein Schweizerbürger seiner politischen Rechte verlustig erklärt werden kann.

Art. 67.

Die Bundesgesezgebung trifft die erforderlichen Bestimmungen über die

Jezige Bundesverfassung.

einem Kanton an den andern Bestimmungen treffen; die Auslieferung kann jedoch für politische Vergehen und für Pressvergehen nicht verbindlich gemacht werden.

Art. 56.

Die Ausmittlung von Bürgerrechten für Heimatlose und die Maassregeln zur Verhinderung der Entstehung neuer Heimatlosen sind Gegenstand der Bundesgesezgebung.

Art. 59.

Die Bundesbehörden sind befugt, bei gemeingefährlichen Seuchen gesundheitspolizeiliche Verfügungen zu erlassen.

Art. 57.

Dem Bunde steht das Recht zu, Fremde, welche die innere oder äussere Sicherheit der Eidgenossenschaft gefährden, aus dem schweizerischen Gebiete wegzuweisen.

Art. 58.

Der Orden der Jesuiten und die ihm affiliirten Gesellschaften dürfen in keinem Theile der Schweiz Aufnahme finden.

Zweiter Abschnitt.

Bundesbehörden.

I. Bundesversammlung.

Art. 60.

Die oberste Gewalt des Bundes wird durch die Bundesversammlung ausgeübt, welche aus zwei Abtheilungen besteht:

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Auslieferung der Angeklagten von einem Kanton an den andern; die Auslieferung kann jedoch für politische Vergehen und für Pressvergehen nicht verbindlich gemacht werden.

Art. 68.

Gleich alt Art. 56.

Art. 69.

Dem Bunde steht die Gesezgebung über die gegen gemeingefährliche Epidemien und Viehseuchen zu treffenden gesundheitspolizeilichen Verfügungen zu.

Art. 70.

Gleich alt Art. 57.

(Siehe Art. 51 neu.)

Zweiter Abschnitt.

Bundesbehörden.

I. Bundesversammlung.

Art. 71.

Unter Vorbehalt der Rechte des Volkes und der Kantone (Art. 89 und 121) wird die oberste Gewalt des Bundes durch die Bundesversamm-

Jezige Bundesverfassung.	Revidirte Bundesverfassung.
A. aus dem Nationalrath, B. aus dem Ständerath.	lung ausgeübt, welche aus zwei Abtheilungen besteht: A. aus dem Nationalrath, B. aus dem Ständerath.
A. Nationalrath.	A. Nationalrath.
Art. 61. Der Nationalrath wird aus Abgeordneten des schweizerischen Volkes gebildet. Auf je 20,000 Seelen der Gesammtbevölkerung wird ein Mitglied gewählt. Eine Bruchzahl über 10,000 Seelen wird für 20,000 Seelen berechnet. Jeder Kanton und bei getheilten Kantonen jeder der beiden Landestheile hat wenigstens ein Mitglied zu wählen.	Art. 72. Gleich alt Art. 61.
Art. 62. Die Wahlen für den Nationalrath sind direkte. Sie finden in eidgenössischen Wahlkreisen statt, welche jedoch nicht aus Theilen verschiedener Kantone gebildet werden können.	Art. 73. Gleich alt Art. 62.
Art. 63. Stimmberechtigt ist jeder Schweizer, der das zwanzigste Altersjahr zurükgelegt hat und im Uebrigen nach der Gesezgebung des Kantons, in welchem er seinen Wohnsiz hat, nicht vom Aktivbürgerrecht ausgeschlossen ist.	Art. 74. Stimmberechtigt bei Wahlen und Abstimmungen ist jeder Schweizer, der das zwanzigste Altersjahr zurükgelegt hat und im Uebrigen nach der Gesezgebung des Kantons, in welchem er seinen Wohnsiz hat, nicht vom Aktivbürgerrechte ausgeschlossen ist. Es bleibt jedoch der Gesezgebung des Bundes vorbehalten, über diese Stimmberechtigung einheitliche Vorschriften aufzustellen.
Art. 64. Wahlfähig als Mitglied des Nationalrathes ist jeder stimmberechtigte Schweizerbürger weltlichen Standes.	Art. 75. Wahlfähig als Mitglied des Nationalrathes ist jeder stimmberechtigte Schweizerbürger weltlichen Standes.

Jezige Bundesverfassung.	Revidirte Bundesverfassung.
Naturalisirte Schweizerbürger müssen seit wenigstens fünf Jahren das erworbene Bürgerrecht besizen, um wahlfähig zu sein.	
Art. 65. Der Nationalrath wird auf die Dauer von drei Jahren gewählt, und es findet jeweilen Gesammterneuerung statt.	Art. 76. Gleich alt Art. 65.
Art. 66. Die Mitglieder des Ständerathes, des Bundesrathes und von lezterem gewählte Beamte können nicht zugleich Mitglieder des Nationalrathes sein.	Art. 77. Gleich alt Art. 66.
Art. 67. Der Nationalrath wählt aus seiner Mitte für jede ordentliche oder ausserordentliche Sizung einen Präsidenten und Vizepräsidenten. Dasjenige Mitglied, welches während einer ordentlichen Sizung die Stelle eines Präsidenten bekleidete, ist für die nächstfolgende ordentliche Sizung weder als Präsident noch als Vizepräsident wählbar. Das gleiche Mitglied kann nicht während zwei unmittelbar auf einander folgender ordentlichen Sizungen Vizepräsident sein. Der Präsident hat bei gleich getheilten Stimmen zu entscheiden; bei Wahlen übt er das Stimmrecht aus, wie jedes Mitglied.	Art. 78. Gleich alt Art. 67.
Art. 68. Die Mitglieder des Nationalrathes werden aus der Bundeskasse entschädigt.	Art. 79. Gleich alt Art. 68.

Jezige Bundesverfassung.	Revidirte Bundesverfassung.
B. Ständerath.	B. Ständerath.
Art. 69.	Art. 80.
Der Ständerath besteht aus 44 Abgeordneten der Kantone. Jeder Kanton wählt zwei Abgeordnete, in den getheilten Kantonen jeder Landestheil einen Abgeordneten.	Gleich alt Art. 69.
Art. 70.	Art. 81.
Die Mitglieder des Nationalrathes und des Bundesrathes können nicht zugleich Mitglieder des Ständerathes sein.	Gleich alt Art. 70.
Art. 71.	Art. 82.
Der Ständerath wählt für jede ordentliche oder ausserordentliche Sizung aus seiner Mitte einen Präsidenten und Vizepräsidenten.	Gleich alt Art. 71.
Aus den Gesandten desjenigen Kantons, aus welchem für eine ordentliche Sizung der Präsident gewählt worden ist, kann für die nächstfolgende ordentliche Sizung weder der Präsident, noch der Vizepräsident gewählt werden.	(Bloss der Ausdruk: „Gesandte“ zu ersetzen durch „Abgeordnete“.)
Gesandte des gleichen Kantons können nicht während zwei unmittelbar auf einander folgender ordentlichen Sizungen die Stelle eines Vizepräsidenten bekleiden.	Wie oben.
Der Präsident hat bei gleich getheilten Stimmen zu entscheiden; bei Wahlen übt er das Stimmrecht aus wie jedes Mitglied.	
Art. 72.	Art. 83.
Die Mitglieder des Ständerathes werden von den Kantonen entschädigt.	Gleich alt Art. 72.

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Jezige Bundesverfassung.

C. Befugnisse der Bundesversammlung.

Art. 73.

Der Nationalrath und der Ständerath haben alle Gegenstände zu behandeln, welche nach Inhalt der gegenwärtigen Verfassung in die Kompetenz des Bundes gehören und nicht einer andern Bundesbehörde zugeschieden sind.

Art. 74

Die Gegenstände, welche in den Geschäftskreis beider Räthe fallen, sind insbesondere folgende:

1) Geseze und Beschlüsse zur Ausführung der Bundesverfassung, wie namentlich Geseze über Bildung der Wahlkreise, über Wahlart, über Organisation und Geschäftsgang der Bundesbehörden und Bildung der Schwurgerichte.

2) Besoldung und Entschädigung der Mitglieder der Bundesbehörden und der Bundeskanzlei; Errichtung bleibender Beamtungen und Bestimmung ihrer Gehalte.

3) Wahl des Bundesrathes, des Bundesgerichtes, des Kanzlers, des Generals, des Chefs des Stabes und eidgenössischer Repräsentanten.

4) Anerkennung auswärtiger Staaten und Regierungen.

5) Bündnisse und Verträge mit dem Auslande, sowie die Gutheissung von Verträgen der Kantone unter sich oder mit dem Auslande. Solche Verträge der Kantone gelangen jedoch nur dann an die Bundesversammlung, wenn vom Bundesrath oder einem andern Kantone Einsprache erhoben wird.

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C. Befugnisse der Bundesversammlung.

Art. 84.

Gleich alt Art. 73.

Art. 85.

Die Gegenstände, welche in den Geschäftskreis beider Räthe fallen, sind insbesondere folgende:

1) Geseze über die Organisation und die Wahlart der Bundesbehörden.

2) Geseze und Beschlüsse über diejenigen Gegenstände, zu deren Regelung der Bund nach Maassgabe der Bundesverfassung befugt ist.

3) Besoldung und Entschädigung der Mitglieder der Bundesbehörden und der Bundeskanzlei; Errichtung bleibender Beamtungen und Bestimmung ihrer Gehalte.

4) Wahl des Bundesrathes, des Bundesgerichtes, des Kanzlers, sowie des Generals der eidgenössischen Armee.

Der Bundesgesezgebung bleibt vorbehalten, auch die Vornahme oder Bestätigung weiterer Wahlen der Bundesversammlung zu übertragen.

5) Bündnisse und Verträge mit dem Auslande, sowie die Gutheissung von Verträgen der Kantone unter sich oder mit dem Auslande. Solche Verträge der Kantone gelangen jedoch nur dann an die Bundesversammlung, wenn vom Bundesrath oder einem

Jezige Bundesverfassung.

6) Maassregeln für die äussere Sicherheit, für Behauptung der Unabhängigkeit und Neutralität der Schweiz, Kriegserklärungen und Friedensschlüsse.

7) Garantie der Verfassungen und des Gebiets der Kantone; Intervention in Folge der Garantie; Maassregeln für die innere Sicherheit, für Handhabung von Ruhe und Ordnung; Amnestie und Begnadigung.

8) Massregeln, welche die Handhabung der Bundesverfassung, die Garantie der Kantonalverfassungen, die Erfüllung der bundesmässigen Verpflichtungen und den Schuz der durch den Bund gewährleisteten Rechte zum Zweke haben.

9) Gesezliche Bestimmungen über Organisation des eidgenössischen Militärwesens, über Unterricht der Truppen und über Leistungen der Kantone; Verfügungen über das Bundesheer.

10) Festsezung der eidgenössischen Mannschafts- und Geldscala; gesezliche Bestimmungen über Verwaltung und Verwendung der eidgenössischen Kriegsfonds; Erhebung direkter Beiträge der Kantone; Anleihen; Voranschlag und Rechnungen.

11) Geseze und Beschlüsse über Zölle, Postwesen, Münzen, Maass und Gewicht, Fabrikation und Verkauf von Schiesspulver, Waffen und Munition.

12) Errichtung öffentlicher Anstalten und Werke und hierauf bezügliche Expropriationen.

13) Gesezliche Verfügungen über Niederlassungsverhältnisse, über Hei-

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andern Kanton Einsprache erhoben wird.

6) Maassregeln für die äussere Sicherheit, für Behauptung der Unabhängigkeit und Neutralität der Schweiz, Kriegserklärungen und Friedensschlüsse.

7) Garantie der Verfassungen und des Gebietes der Kantone; Intervention in Folge der Garantie; Maassregeln für die innere Sicherheit, für Handhabung von Ruhe und Ordnung; Amnestie und Begnadigung.

8) Maassregeln, welche die Handhabung der Bundesverfassung, die Garantie der Kantonalverfassungen, die Erfüllung der bundesmässigen Verpflichtungen zum Zweke haben.

9) Verfügungen über das Bundesheer.

10) Aufstellung des jährlichen Voranschlages und Abnahme der Staatsrechnung, sowie Beschlüsse über Aufnahme von Anlehen.

11) Die Oberaufsicht über die eidgenössische Verwaltung und Rechtspflege.

12) Beschwerden gegen Entscheidungen des Bundesrathes über Administrativstreitigkeiten (Art. 113).

13) Kompetenzstreitigkeiten zwischen Bundesbehörden.

14) Revision der Bundesverfassung.

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matlose, Fremdenpolizei und Sanitätswesen.

14) Die Oberaufsicht über die eidgenössische Verwaltung und Rechtspflege.

15) Beschwerden von Kantonen oder Bürgern über Verfügungen des Bundesrathes.

16) Streitigkeiten unter den Kantonen, welche staatsrechtlicher Natur sind.

17) Kompetenzstreitigkeiten insbesondere darüber:

a. ob ein Gegenstand in den Bereich des Bundes oder der Kantonalsouveränetät gehöre;
b. ob eine Frage in die Kompetenz des Bundesrathes oder des Bundesgerichtes falle.

18) Revision der Bundesverfassung.

Art. 75.

Die beiden Räthe versammeln sich jährlich ein Mal zur ordentlichen Sizung an einem durch das Reglement festzusezenden Tage.

Sie werden ausserordentlich einberufen durch Beschluss des Bundesrathes, oder wenn ein Viertheil der Mitglieder des Nationalrathes oder fünf Kantone es verlangen.

Art. 76.

Um gültig verhandeln zu können, ist die Anwesenheit der absoluten Mehrheit der Mitglieder des betreffenden Rathes erforderlich.

Art. 77.

Im Nationalrath und Ständerath entscheidet die Mehrheit der Stimmenden.

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Art. 86.

Gleich alt Art. 75.

Art. 87.

Gleich alt Art. 76.

Art. 88.

Im Nationalrath und Ständerath entscheidet die absolute Mehrheit der Stimmenden.

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Art. 78. Für Bundesgeseze und Bundesbeschlüsse ist die Zustimmung beider Räthe erforderlich.	Art. 89. Für Bundesgeseze und Bundesbeschlüsse ist die Zustimmung beider Räthe erforderlich. Bundesgeseze, sowie allgemein verbindliche Bundesbeschlüsse, die nicht dringlicher Natur sind, sollen überdies dem Volke zur Annahme oder Verwerfung vorgelegt werden, wenn es von 30,000 stimmberechtigten Schweizerbürgern oder von acht Kantonen verlangt wird.
	Art. 90. Die Bundesgesezgebung wird bezüglich der Formen und Fristen der Volksabstimmung das Erforderliche feststellen.
Art. 79. Die Mitglieder beider Räthe stimmen ohne Instruktionen.	Art. 91. Gleich alt Art. 79.
Art. 80. Jeder Rath verhandelt abgesondert. Bei Wahlen (Art. 74, Nr. 3), bei Ausübung des Begnadigungsrechtes und für Entscheidung von Kompetenzstreitigkeiten vereinigen sich jedoch beide Räthe unter der Leitung des Präsidenten des Nationalrathes zu einer gemeinschaftlichen Verhandlung, so dass die absolute Mehrheit der stimmenden Mitglieder beider Räthe entscheidet.	Art. 92. Jeder Rath verhandelt abgesondert. Bei Wahlen (Art. 85, Ziffer 4), bei Ausübung des Begnadigungsrechtes und für Entscheidung von Kompetenzstreitigkeiten (Art. 85, Ziffer 13) vereinigen sich jedoch beide Räthe unter der Leitung des Präsidenten des Nationalrathes zu einer gemeinschaftlichen Verhandlung, so dass die absolute Mehrheit der stimmenden Mitglieder beider Räthe entscheidet.
Art. 81. Jedem der beiden Räthe und jedem Mitglied derselben steht das Vorschlagsrecht (die Initiative) zu. Das gleiche Recht können die Kantone durch Korrespondenz ausüben.	Art. 93. Gleich alt Art. 81.

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Art. 82.

Die Sizungen der beiden Räthe sind in der Regel öffentlich.

II. Bundesrath.

Art. 83.

Die oberste vollziehende und leitende Behörde der Eidgenossenschaft ist ein Bundesrath, welcher aus sieben Mitgliedern besteht.

Art. 84.

Die Mitglieder des Bundesrathes werden von der Bundesversammlung aus allen Schweizerbürgern, welche als Mitglieder des Nationalrathes wählbar sind, auf die Dauer von drei Jahren ernannt. Es darf jedoch nicht mehr als ein Mitglied aus dem nämlichen Kanton gewählt werden.

Nach jeder Gesammterneuerung des Nationalrathes findet auch eine Gesammterneuerung des Bundesrathes statt.

Die in der Zwischenzeit ledig gewordenen Stellen werden bei der nächstfolgenden Sizung der Bundesversammlung für den Rest der Amtsdauer wieder besezt.

Art. 85.

Die Mitglieder des Bundesrathes dürfen keine andere Beamtung, sei es im Dienste der Eidgenossenschaft, sei es in einem Kantone, bekleiden, noch irgend einen andern Beruf oder Gewerbe treiben.

Art. 86.

Den Vorsiz im Bundesrath führt der Bundespräsident, welcher, sowie

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Art. 94.

Gleich alt Art. 82.

II. Bundesrath.

Art. 95.

Gleich alt Art. 83.

Art. 96.

Gleich alt Art. 84.

Art. 97.

Gleich alt Art. 85.

Art. 98.

Gleich alt Art. 86.

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auch der Vizepräsident, von den vereinigten Räthen aus den Mitgliedern desselben für die Dauer eines Jahres gewählt wird.

Der abtretende Präsident ist für das nächstfolgende Jahr weder als Präsident, noch als Vizepräsident wählbar. Das gleiche Mitglied kann nicht während zwei unmittelbar auf einander folgenden Jahren die Stelle eines Vizepräsidenten bekleiden.

Art. 87.

Der Bundespräsident und die übrigen Mitglieder des Bundesrathes beziehen einen jährlichen Gehalt aus der Bundeskasse.

Art. 99.

Gleich alt Art. 87.

Art. 88.

Um gültig verhandeln zu können, müssen wenigstens vier Mitglieder des Bundesrathes anwesend sein.

Art. 100.

Gleich alt Art. 88.

Art. 89.

Die Mitglieder des Bundesrathes haben bei den Verhandlungen der beiden Abtheilungen der Bundesversammlung berathende Stimme und auch das Recht, über einen in Berathung liegenden Gegenstand Anträge zu stellen.

Art. 101.

Gleich alt Art. 89.

Art. 90.

Der Bundesrath hat inner den Schranken der gegenwärtigen Verfassung vorzüglich folgende Befugnisse und Obliegenheiten:

1) Er leitet die eidgenössischen Angelegenheiten, gemäss der Bundesgeseze und Bundesbeschlüsse.

2) Er hat für Beobachtung der Verfassung, der Geseze und Beschlüsse des Bundes, sowie der Vorschriften

Art. 102.

Der Bundesrath hat inner den Schranken der gegenwärtigen Verfassung vorzüglich folgende Befugnisse und Obliegenheiten.

1) Er leitet die eidgenössischen Angelegenheiten, gemäss den Bundesgesezen und Bundesbeschlüssen.

2) Er hat für Beobachtung der Verfassung, der Geseze und Beschlüsse des Bundes, sowie der Vorschriften

Jezige Bundesverfassung.

eidgenössischer Konkordate zu wachen; er trifft zu Handhabung derselben von sich aus oder auf eingegangene Beschwerde die erforderlichen Verfügungen.

3) Er wacht für die Garantie der Kantonalverfassungen.

4) Er schlägt der Bundesversammlung Geseze und Beschlüsse vor und begutachtet die Anträge, welche von den Räthen des Bundes oder von den Kantonen an ihn gelangen.

5) Er vollzieht die Bundesgeseze und Bundesbeschlüsse, die Urtheile des Bundesgerichtes, sowie die Vergleiche oder schiedsrichterlichen Sprüche über Streitigkeiten zwischen Kantonen.

6) Er hat diejenigen Wahlen zu treffen, welche nicht durch die Verfassung der Bundesversammlung und dem Bundesgericht oder durch die Gesezgebung einer andern untergeordneten Behörde übertragen werden.

Er ernennt Kommissarien für Sendungen im Innern oder nach Aussen.

7) Er prüft die Verträge der Kantone unter sich oder mit dem Auslande und genehmigt dieselben, sofern sie zulässig sind. (Art. 74, Nr. 5.)

8) Er wahrt die Interessen der Eidgenossenschaft nach Aussen, wie namentlich ihre völkerrechtlichen Beziehungen, und besorgt die auswärtigen Angelegenheiten überhaupt.

9) Er wacht für die äussere Sicherheit, für die Behauptung der Unabhängigkeit und Neutralität der Schweiz.

10) Er sorgt für die innere Sicherheit der Eidgenossenschaft, für Handhabung von Ruhe und Ordnung.

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eidgenössischer Konkordate zu wachen; er trifft zur Handhabung derselben von sich aus oder auf eingegangene Beschwerde, soweit die Beurtheilung solcher Rekurse nicht nach Art. 113 dem Bundesgerichte übertragen ist, die erforderlichen Verfügungen.

3) Er wacht für die Garantie der Kantonalverfassungen.

4) Er schlägt der Bundesversammlung Geseze und Beschlüsse vor und begutachtet die Anträge, welche von den Räthen des Bundes oder von den Kantonen an ihn gelangen.

5) Er vollzieht die Bundesgeseze und Bundesbeschlüsse, die Urtheile des Bundesgerichts, sowie die Vergleiche oder schiedsrichterlichen Sprüche über Streitigkeiten zwischen Kantonen.

6) Er hat diejenigen Wahlen zu treffen, welche nicht der Bundesversammlung und dem Bundesgerichte oder einer andern Behörde übertragen werden.

7) Er prüft die Verträge der Kantone unter sich oder mit dem Auslande und genehmigt dieselben, sofern sie zulässig sind. (Art. 85, Ziffer 5.)

Ziffer 8 bis 12 wie neben.

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11) In Fällen von Dringlichkeit ist der Bundesrath befugt, sofern die Räthe nicht versammelt sind, die erforderliche Truppenzahl aufzubieten und über solche zu verfügen, unter Vorbehalt unverzüglicher Einberufung der Bundesversammlung, sofern die aufgebotenen Truppen zweitausend Mann übersteigen oder das Aufgebot länger als drei Wochen dauert.

12) Er besorgt das eidgenössische Militärwesen und alle Zweige der Verwaltung, welche dem Bunde angehören.

13) Er prüft die Geseze und Verordnungen der Kantone, welche seiner Genehmigung bedürfen; er überwacht diejenigen Zweige der Kantonalverwaltung, welche durch den Bund seiner Aufsicht unterstellt sind, wie das Militärwesen, Zölle, Strassen und Brüken.

14) Er sorgt für die Verwaltung der Finanzen des Bundes, für die Entwerfung des Voranschlages und die Stellung der Rechnungen über die Einnahmen und Ausgaben des Bundes.

15) Er hat die Aufsicht über die Geschäftsführung aller Beamten und Angestellten der eidgenössischen Verwaltung.

16) Er erstattet der Bundesversammlung jeweilen bei ihrer ordentlichen Sizung Rechenschaft über seine Verrichtungen, sowie Bericht über den Zustand der Eidgenossenschaft im Innern sowohl als nach Aussen, und wird ihrer Aufmerksamkeit diejenigen Maassregeln empfehlen, welche er zur Beförderung gemeinsamer Wohlfahrt für dienlich erachtet.

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13) Er prüft die Geseze und Verordnungen der Kantone, welche seiner Genehmigung bedürfen; er überwacht diejenigen Zweige der Kantonalverwaltung, welche seiner Aufsicht unterstellt sind.

Ziffer 14 bis 16 wie neben.

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Er hat auch besondere Berichte zu erstatten, wenn die Bundesversammlung oder eine Abtheilung derselben es verlangt.

Art. 91.

Die Geschäfte des Bundesrathes werden nach Departementen unter die einzelnen Mitglieder vertheilt. Diese Eintheilung hat aber einzig zum Zwek, die Prüfung und Besorgung der Geschäfte zu fördern; der jeweilige Entscheid geht von dem Bundesrathe als Behörde aus.

Art. 92.

Der Bundesrath und seine Departemente sind befugt, für besondere Geschäfte Sachkundige beizuziehen.

III. Bundeskanzlei.

Art. 93.

Eine Bundeskanzlei, welcher ein Kanzler vorsteht, besorgt die Kanzleigeschäfte bei der Bundesversammlung und beim Bundesrath.

Der Kanzler wird von der Bundesversammlung auf die Dauer von drei Jahren jeweilen gleichzeitig mit dem Bundesrath gewählt.

Die Bundeskanzlei steht unter der besondern Aufsicht des Bundesrathes.

Die nähere Organisation der Bundeskanzlei bleibt der Bundesgesezgebung vorbehalten.

IV. Bundesgericht.

Art. 94.

Zur Ausübung der Rechtspflege, soweit dieselbe in den Bereich des Bundes fällt, wird ein Bundesgericht aufgestellt.

Revidirte Bundesverfassung.

Art. 103.

Gleich alt Art. 91.

Art. 104.

Gleich alt Art. 92.

III. Bundeskanzlei.

Art. 105.

Gleich alt Art. 93.

IV. Organisation und Befugnisse des Bundesgerichts.

Art. 106.

Zur Ausübung der Rechtspflege, soweit dieselbe in den Bereich des Bundes fällt, wird ein Bundesgericht aufgestellt.

Jezige Bundesverfassung.

Für Beurtheilung von Straffällen werden Schwurgerichte (Jury) gebildet.

Art. 95.

Das Bundesgericht besteht aus eilf Mitgliedern nebst Ersazmännern, deren Anzahl durch die Bundesgesezgebung bestimmt wird.

Art. 96.

Die Mitglieder des Bundesgerichtes und die Ersazmänner werden von der Bundesversammlung gewählt. Ihre Amtsdauer ist drei Jahre. Nach der Gesammterneuerung des Nationalrathes findet auch eine Gesammterneuerung des Bundesgerichtes statt.

Die in der Zwischenzeit ledig gewordenen Stellen werden bei der nächstfolgenden Sizung der Bundesversammlung für den Rest der Amtsdauer wieder besezt.

Art. 97.

In das Bundesgericht kann jeder Schweizerbürger ernannt werden, der in den Nationalrath wählbar ist.

Die Mitglieder des Bundesrathes und die von ihm gewählten Beamten können nicht zugleich Mitglieder des Bundesgerichtes sein.

Art. 98.

Der Präsident und der Vizepräsident des Bundesgerichtes werden von

Revidirte Bundesverfassung.

Für Beurtheilung von Straffällen (Art. 112) werden Schwurgerichte (Jury) gebildet.

Alt Art. 95 gestrichen.

Art. 107.

Die Mitglieder des Bundesgerichtes und die Ersazmänner werden von der Bundesversammlung gewählt. Bei der Wahl derselben soll darauf Bedacht genommen werden, dass alle drei Nationalsprachen vertreten seien.

Das Gesez bestimmt die Organisation des Bundesgerichtes und seiner Abtheilungen, die Zahl der Mitglieder und Ersazmänner, deren Amtsdauer und Besoldung.

Art. 108.

In das Bundesgericht kann jeder Schweizerbürger ernannt werden, der in den Nationalrath wählbar ist.

Die Mitglieder der Bundesversammlung und des Bundesrathes und die von diesen Behörden gewählten Beamten können nicht gleichzeitig Mitglieder des Bundesgerichtes sein.

Die Mitglieder des Bundesgerichtes dürfen keine andere Beamtung, sei es im Dienste der Eidgenossenschaft, sei es in einem Kantone, bekleiden, noch irgend einen andern Beruf oder Gewerbe treiben.

Alt Art. 98 gestrichen.

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Jezige Bundesverfassung.

der Bundesversammlung aus den Mitgliedern desselben jeweilen auf ein Jahr gewählt.

Art. 99.

Die Mitglieder des Bundesgerichtes werden aus der Bundeskasse durch Taggelder entschädigt.

Art. 100.

Das Bundesgericht bestellt seine Kanzlei.

Art. 101.

Das Bundesgericht urtheilt als Zivilgericht:

1) über Streitigkeiten, welche nicht staatsrechtlicher Natur sind:

a. zwischen Kantonen unter sich;

b. zwischen dem Bund und einem Kanton;

2) über Streitigkeiten zwischen dem Bund einerseits und Korporationen oder Privaten andererseits, wenn diese Korporationen oder Privaten Kläger sind und der Streitgegenstand von einem beträchtlichen, durch die Bundesgesezgebung zu bestimmenden Werthe ist;

3) über Streitigkeiten in Bezug auf Heimatlosigkeit.

In den unter Nr. 1, litt. a und b bezeichneten Fällen geschieht die Ueberweisung an das Bundesgericht durch den Bundesrath. Wenn dieser die Frage, ob ein Gegenstand vor das Bundesgericht gehöre, verneinend beantwortet, so entscheidet hierüber die Bundesversammlung.

Art. 102.

Das Bundesgericht ist verpflichtet, auch die Beurtheilung anderer Fälle zu übernehmen, wenn dasselbe von

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Alt Art. 99 gestrichen.

Art. 109.

Gleich alt Art. 100.

Art. 110.

Das Bundesgericht beurtheilt zivilrechtliche Streitigkeiten:

1) zwischen dem Bunde und den Kantonen;

2) zwischen dem Bunde einerseits und Korporationen oder Privaten andererseits, wenn der Streitgegenstand eine durch die Bundesgesezgebung zu bestimmende Bedeutung hat und wenn diese Korporationen oder Privaten Kläger sind;

3) zwischen den Kantonen unter sich;

4) zwischen den Kantonen einerseits und Korporationen oder Privaten andererseits, wenn der Streitgegenstand von einer durch die Bundesgesezgebung zu bestimmenden Bedeutung ist und eine Partei es verlangt.

Das Bundesgericht urtheilt ferner über Anstände, betreffend Heimatlosigkeit, sowie über Bürgerrechtsstreitigkeiten zwischen Gemeinden verschiedener Kantone.

Art. 111.

Das Bundesgericht ist verpflichtet, die Beurtheilung auch anderer Fälle zu übernehmen, wenn dasselbe von

Jezige Bundesverfassung.

beiden Parteien angerufen wird und der Streitgegenstand von einem beträchtlichen, durch die Bundesgesezgebung festzusezenden Werthe ist. Dabei fallen jedoch die Kosten ausschliesslich auf Rechnung der Parteien.

Art. 103.

Die Mitwirkung des Bundesgerichtes bei Beurtheilung von Straffällen wird durch die Bundesgesezgebung bestimmt, welche über Versezung in Anklagezustand, über Bildung des Assisen- und Kassationsgerichts das Nähere festsezen wird.

Art. 104.

Das Assisengericht, mit Zuziehung von Geschwornen, welche über die Thatfrage absprechen, urtheilt:

a. in Fällen, wo von einer Bundesbehörde die von ihr ernannten Beamten zur strafrechtlichen Beurtheilung überwiesen werden;
b. über Fälle von Hochverrath gegen die Eidgenossenschaft, von Aufruhr und Gewaltthat gegen die Bundesbehörden;
c. über Verbrechen und Vergehen gegen das Völkerrecht;
d. über politische Verbrechen und Vergehen, die Ursache oder Folge derjenigen Unruhen sind, durch welche eine bewaffnete eidgenössische Intervention veranlasst worden ist.

Der Bundesversammlung steht das Recht zu, hinsichtlich solcher Verbrechen und Vergehen Amnestie oder Begnadigung auszusprechen.

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beiden Parteien angerufen wird und der Streitgegenstand von einer durch die Bundesgesezgebung zu bestimmenden Bedeutung ist.

Alt Art. 103 fällt weg.

Art. 112.

Das Bundesgericht urtheilt mit Zuziehung von Geschwornen, weche über die Thatfrage absprechen, in Straffällen:

1) über Hochverrath gegen die Eidgenossenschaft, Aufruhr und Gewaltthat gegen die Bundesbehörden;

2) über Verbrechen und Vergehen gegen das Völkerrecht;

3) über politische Verbrechen und Vergehen, die Ursache oder Folge derjenigen Unruhen sind, durch welche eine bewaffnete eidgenössische Intervention veranlasst wird, und

4) in Fällen, wo von einer Bundesbehörde die von ihr ernannten Beamten ihm zur strafrechtlichen Beurtheilung überwiesen werden.

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Art. 105. Das Bundesgericht urtheilt im Ferneren über Verlezung der durch die Bundesverfassung garantirten Rechte, wenn hierauf bezügliche Klagen von der Bundesversammlung an dasselbe gewiesen werden.	**Art. 113.** Das Bundesgericht urtheilt ferner: 1) über Kompetenzkonflikte zwischen Bundesbehörden einerseits und Kantonalbehörden andererseits; 2) über Streitigkeiten staatsrechtlicher Natur zwischen Kantonen; 3) über Beschwerden, betreffend Verlezung verfassungsmässiger Rechte der Bürger, sowie über solche von Privaten wegen Verlezung von Konkordaten und Staatsverträgen. Vorbehalten sind die durch die Bundesgesezgebung näher festzustellenden Administrativstreitigkeiten. In allen diesen Fällen sind jedoch die von der Bundesversammlung erlassenen Geseze und allgemein verbindlichen Beschlüsse, sowie die von ihr genehmigten Staatsverträge für das Bundesgericht maassgebend.
Art. 106. Es bleibt der Bundesgesezgebung überlassen, ausser den in den Art. 101, 104 und 105 bezeichneten Gegenständen auch noch andere Fälle in die Kompetenz des Bundesgerichtes zu legen.	**Art. 114.** Es bleibt der Bundesgesezgebung überlassen, ausser den in den Artikeln 110, 112 und 113 bezeichneten Gegenständen auch noch andere Fälle in die Kompetenz des Bundesgerichtes zu legen, insbesondere die Befugnisse festzustellen, welche ihm nach Erlassung der im Art. 64 vorgesehenen eidgenössischen Geseze behufs einheitlicher Anwendung derselben zu übertragen sind.
Art. 107. Die Bundesgesezgebung wird das Nähere bestimmen: a. über Aufstellung eines Staatsanwaltes; b. über die Verbrechen und Vergehen, welche in die Kompetenz	Alt Art. 107 fällt weg.

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des Bundesgerichtes fallen, und über die Strafgeseze, welche anzuwenden sind;
c. über das Verfahren, welches mündlich und öffentlich sein soll;
d. über die Gerichtskosten.

V. Verschiedene Bestimmungen.

Art. 108.

Alles, was sich auf den Siz der Bundesbehörden bezieht, ist Gegenstand der Bundesgesezgebung.

Art. 109.

Die drei Hauptsprachen der Schweiz, die deutsche, französische und italienische, sind Nationalsprachen des Bundes.

Art. 110.

Die Beamten der Eidgenossenschaft sind für ihre Geschäftsführung verantwortlich. Ein Bundesgesez wird diese Verantwortlichkeit näher bestimmen.

Dritter Abschnitt.

Revision der Bundesverfassung.

Art. 111.

Die Bundesverfassung kann jederzeit revidirt werden.

Art. 112.

Die Revision geschieht auf dem Wege der Bundesgesezgebung.

Art. 113.

Wenn eine Abtheilung der Bundesversammlung die Revision beschliesst und die andere nicht zustimmt, oder wenn fünfzigtausend stimmberechtigte

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V. Verschiedene Bestimmungen.

Art. 115.

Gleich alt Art. 108.

Art. 116.

Gleich alt Art. 109.

Art. 117.

Gleich alt Art. 110.

Dritter Abschnitt.

Revision der Bundesverfassung.

Art. 118.

Gleich alt Art. 111.

Art. 119.

Gleich alt Art. 112.

Art. 120.

Gleich alt Art. 113.

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Schweizerbürger die Revision der Bundesverfassung verlangen, so muss im einen wie im andern Falle die Frage, ob eine Revision stattfinden soll oder nicht, dem schweizerischen Volke zur Abstimmung vorgelegt werden.

Sofern in einem dieser Fälle die Mehrheit der stimmenden Schweizerbürger über die Frage sich bejahend ausspricht, so sind beide Räthe neu zu wählen, um die Revision zur Hand zu nehmen.

Art. 114.

Die revidirte Bundesverfassung tritt in Kraft, wenn sie von der Mehrheit der stimmenden Schweizerbürger und von der Mehrheit der Kantone angenommen ist.

Uebergangsbestimmungen.

Art. 1.

Ueber die Annahme gegenwärtiger Bundesverfassung haben sich die Kantone auf die durch die Kantonalverfassungen vorgeschriebene, oder — wo die Verfassung hierüber keine Bestimmung enthält — auf die durch die oberste Behörde des betreffenden Kantons festzusezende Weise auszusprechen.

Revidirte Bundesverfassung.

Art. 121.

Die revidirte Bundesverfassung tritt in Kraft, wenn sie von der Mehrheit der an der Abstimmung theilnehmenden Bürger und von der Mehrheit der Kantone angenommen ist.

Bei Ausmittlung der Mehrheit der Kantone wird die Stimme eines Halbkantons als halbe Stimme gezählt.

Das Ergebniss der Volksabstimmung in jedem Kantone gilt als Standesstimme desselben.

Uebergangsbestimmungen.

Art. 1.

In Betreff der Verwendung der Zoll- und Posteinnahmen bleiben die bisherigen Verhältnisse unverändert, bis der Uebergang der bis jezt von den Kantonen getragenen Militärlasten auf den Bund sich vollzieht.

Ausserdem ist auf dem Wege der Bundesgesezgebung zu bewirken, dass denjenigen Kantonen, für welche die durch die Art. 20, 30, 36, zweites Alinea, und 42 e, herbeigeführten Veränderungen im Gesammtergebnisse

Jezige Bundesverfassung.	Revidirte Bundesverfassung.
	eine fiskalische Einbusse zur Folge haben, diese Einbusse nicht auf einmal in ihrem vollen Umfange, sondern nur allmälig während einer Uebergangsperiode von einigen Jahren erwachse. Diejenigen Kantone, welche sich bis zum Zeitpunkte, in welchem der Artikel 20 in Kraft tritt, mit den ihnen durch die bisherige Bundesverfassung und die Bundesgeseze obliegenden militärischen Leistungen im Rükstande befinden, sind verpflichtet, diese Leistungen auf eigene Kosten nachzuholen.
Art. 2. Die Ergebnisse der Abstimmung sind dem Vororte zu Handen der Tagsazung mitzutheilen, welche entscheidet, ob die neue Bundesverfassung angenommen sei.	Art. 2. Diejenigen Bestimmungen der eidgenössischen Gesezgebung, der Konkordate, der kantonalen Verfassungen und Geseze, welche mit der neuen Bundesverfassung im Widerspruch stehen, treten mit Annahme derselben, beziehungsweise der Erlassung der darin in Aussicht genommenen Bundesgeseze ausser Kraft.
Art. 3. Wenn die Tagsazung die Bundesverfassung als angenommen erklärt hat, so trifft sie unmittelbar zur Einführung derselben die erforderlichen Bestimmungen. Die Verrichtungen des eidgenössischen Kriegsrathes und des Verwaltungsrathes für die eidgenössischen Kriegsfonds gehen auf den Bundesrath über.	Art. 3. Die neuen Bestimmungen, betreffend die Organisation und die Befugnisse des Bundesgerichts treten erst nach Erlassung der bezüglichen Bundesgeseze in Kraft.
Art. 4. Die im Eingange und in litt. c des Art. 6 der gegenwärtigen Bundesverfassung enthaltenen Bestimmungen	Art. 4. Den Kantonen wird zur Einführung der Unentgeltlichkeit des öffentlichen Primarunterrichts (Art. 27) eine Frist von fünf Jahren eingeräumt.

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finden auf die schon in Kraft bestehenden Verfassungen der Kantone keine Anwendung.

Diejenigen Vorschriften der Kantonalverfassungen, welche mit den übrigen Bestimmungen der Bundesverfassung im Widerspruche stehen, sind vom Tage an, mit welchem diese leztere als angenommen erklärt wird, aufgehoben.

Art. 5.

Der Bezug der schweizerischen Grenzgebühren dauert so lange fort, bis die Tarife der neu einzuführenden Grenzzölle ihre Vollziehung finden.

Art. 6.

Die Beschlüsse der Tagsazung und die Konkordate bleiben bis zu ihrer Aufhebung oder Abänderung in Kraft, soweit sie nicht dieser Bundesverfassung widersprechen.

Dagegen verlieren diejenigen Konkordate ihre Gültigkeit, deren Inhalt als Gegenstand der Bundesgesezgebung erklärt wurde, und zwar von der Zeit an, in welcher die leztere ins Leben tritt.

Art. 7.

Sobald die Bundesversammlung und der Bundesrath konstituirt sein werden, tritt der Bundesvertrag vom 7. August 1815 ausser Kraft.

Revidirte Bundesverfassung.

Art. 5.

Personen, welche den wissenschaftlichen Berufsarten angehören, und welche bis zum Erlasse der im Art. 33 vorgesehenen Bundesgesezgebung von einem Kantone oder von einer mehrere Kantone repräsentirenden Konkordatsbehörde den Ausweis der Befähigung erlangt haben, sind befugt, ihren Beruf in der ganzen Eidgenossenschaft auszuüben.

Art. 2. Der Bundesrath hat für beförderliche und geeignete Bekanntmachung des vorstehenden Entwurfes einer neuen Bundesverfassung zu sorgen.

Art. 3. Die neue Bundesverfassung ist als angenommen zu betrachten, wenn die Mehrheit der stimmenden Schweizerbürger und zugleich die Mehrheit der Kantone sich dafür ausspricht.

Bei Ausmittlung der Mehrheit der Kantone wird die Stimme eines Halbkantons als halbe Stimme gezählt.

Art. 4. Die Stimmgebung des schweizerischen Volkes erfolgt auf dem ganzen Gebiete der Eidgenossenschaft an einem und demselben Tage. Dieser Tag wird durch den Bundesrath festgesezt.

Es darf jedoch die Abstimmung nicht früher als vier Wochen nach geschehener Bekanntmachung der vorgeschlagenen Abänderungen der Bundesverfassung stattfinden.

Art. 5. Stimmberechtigt ist jeder Schweizer, der das zwanzigste Altersjahr zurükgelegt hat und im Uebrigen nach der Gesezgebung des Kantons, in welchem er seinen Wohnsiz hat, nicht vom Aktivbürgerrecht ausgeschlossen ist. (Art. 2 des Bundesgesezes vom 19. Juli 1872.)

Art. 6. Jeder Kanton ordnet die Abstimmung auf seinem Gebiete nach dem Bundesgeseze vom 19. Juli 1872 an.

Art. 7. Ueber die Abstimmung ist in jeder Gemeinde, beziehungsweise in jedem Kreise, ein Protokoll aufzunehmen, in welchem genau anzugeben ist, wie viele Stimmen den Entwurf der neuen Bundesverfassung angenommen und wie viele ihn verworfen haben.

Art. 8. Die Kantone als solche haben ihre Stimmen bis spätestens vierzehn Tage nach der Volksabstimmung durch die nach ihrer Verfassung hiezu befugten Organe abzugeben.

Es bleibt den kantonalen Oberbehörden unbenommen, einfach das Ergebniss der eidgenössischen Abstimmung im Kanton (Art. 4 bis 7 hievor) als Votum desselben zu erklären.

Art. 9. Die Kantonsregierungen haben die Stimmgebung ihres Kantons, sowie die Protokolle über die eidgenössische Abstimmung, dem Bundesrathe zuhanden der Bundesversammlung zu übersenden. Die Stimmkarten sind zur Verfügung der leztern zu halten.

Die Bundesversammlung wird auf Grundlage derselben das Ergebniss der Abstimmungen erwahren und, falls sich dabei ergibt,

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dass der Entwurf angenommen worden ist, die demgemäss revidirte Bundesverfassung in Kraft erklären.

Art. 10. Der Bundesrath wird mit der Vollziehung dieses Gesezes beauftragt.

Also beschlossen vom Nationalrathe,

Bern, den 31. Januar 1874.

Der Präsident:
Ziegler.
Der Protokollführer:
Schiess.

Also beschlossen vom Ständerathe,

Bern, den 31. Januar 1874.

Der Präsident:
A. Kopp.
Der Protokollführer:
J. L. Lütscher.

Nr. 5178.

SCHWEIZ. — Proklamation des Bundesrathes zu der am 19. April 1874 stattfindenden Abstimmung über die neue Bundesverfassung.

Nr. 5178. Schweiz. 23. März 1874.

Getreue, liebe Eidgenossen!

Nachdem die im Jahre 1872 vorgelegte, abgeänderte Bundesverfassung am 12. Mai durch eine kleine Volksmehrheit und hierauf durch 13 gegen 9 Stände abgelehnt war, mussten die eidgenössischen Räthe zunächst im Zweifel sein, wie sie diesen hoheitlichen Wahrspruch zu deuten hätten. Sie konnten sich fragen, ob damit überhaupt eine Revision des Grundgesezes vom Volke habe zurückgewiesen werden wollen, oder ob mit dem Volksvotum nur gesagt sei, dass die vorberathenden Behörden den richtigen Weg nicht betreten und das vom Volke gewünschte Maass nicht eingehalten hätten. ‖ Eine theilweise Lösung dieser Zweifel brachte die Erneuerung des Nationalrathes, welche zu Ende des gleichen Jahres 1872 stattzufinden hatte. — Mit dem Vertrauen des Volkes wurden, des 12. Mai ungeachtet, in beiden Lagern diejenigen Männer wieder geehrt, welche anlässlich der Revisionsbewegung auf der einen oder der

andern Seite in den vordersten Reihen gestanden hatten. Dies schien anzudeuten, dass im Volke nicht eine absolute Abneigung gegen jede, wenn auch noch so dringliche Abänderung der Verfassung walte, sondern dass die Vorlage den Anschauungen des Volkes nicht völlig entsprochen habe. || Diese Lehre aus den Oktoberwahlen von 1872 ziehend, konnte die Bundesversammlung sich schon am 20/21. Dezember mit überwiegender Mehrheit auf den Beschluss vereinigen, den Bundesrath einzuladen, zur Wiederaufnahme der Revision der Bundesverfassung Bericht und Antrag vorzulegen. || In den hierauf folgenden ebenso sorgfältig als gewissenhaft durchgeführten Verhandlungen mussten die gesezgebenden Räthe die Ueberzeugung gewinnen, dass, wenn man zu einem gedeihlichen, in höherm Grade befriedigenden Ziele gelangen wolle, der Weg freundeidgenössischer Verständigung und bundesbrüderlicher Versöhnung zu betreten sei. Es konnte dem unparteiisch prüfenden Blicke nicht entgehen, dass im Volke ungefähr zwei gleich grosse Hälften bestehen, welche beide das Wohl des Vaterlandes getreu im Auge haben, dasselbe aber in verschiedener Weise zu fördern hoffen, — dass mithin beide Hälften als gleichberechtigte sich gegenüberstehen und daher auch eine gleichmässige Berücksichtigung für sich in Anspruch nehmen dürfen. || Die Frucht dieser eingehenden Berathungen liegt nun vor Euch, getreue, liebe Eidgenossen, die Ihr berufen seid, Sonntag den 19. April nächsthin darüber hoheitlich zu entscheiden, ob Ihr das abgeänderte eidgenössische Grundgesez mit Eurem Ja und Amen besiegeln wollet, ob dasselbe an die Stelle der jezigen Verfassug treten solle, unter deren Schirm sich für unser Vaterland unstreitig eine glückliche und ehrenhafte Periode vollendet hat, die aber einer Zeit, welche in 25 Jahren mehr als einem Jahrhundert vorausgeeilt ist, auf die Dauer unmöglich mehr Stand zu halten vermag. || Es kann nun nicht in unserer Absicht liegen, in eine nähere Eörterung des Euch unterbreiteten Verfassungsentwurfes einzutreten. Wir beschränken uns daher darauf, einzelne wenige Punkte hervorzuheben, an denen die Grundlage, auf welcher gebaut worden ist, bestimmter zu Tage tritt, oder die um ihrer besondern Wichtigkeit willen die Aufmerksamkeit in höherm Grade auf sich zu ziehen geeignet sind. || Dass unsere Wehrverfassung einer wesentlichen Umgestaltung bedürfe, wenn die Schweiz mit der erforderlichen Fähigkeit ausgerüstet sein solle, des Vaterlandes Freiheit und Unabhängigkeit zu vertheidigen und unberechtigten oder unwürdigen Zumuthungen mit Erfolg entgegenzutreten, darüber waren nicht bloss die Sachverständigen längst einig, sondern es ist diesfalls auch das Urtheil unserer mannhaften und waffenfreudigen Jugend bereits festgestellt. || Ohne dem eigentlichen Zweke zu nahe zu treten und ohne dem Wesen Eintrag zu thun, sieht der gegenwärtige Entwurf, den Bedenken der Kantone Rechnung tragend, von einer unbedingten Centralisation des Militärwesens ab, indem er den Ständen in Beziehung auf die Verwaltung eine gewisse Mitwirkung auch für die Zukunft sichert. || Schwieriger waren die Verhandlungen in Beziehung auf die einheitliche Gestaltung des Rechtes. || Bekanntlich ging der Entwurf von 1872 von einer

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vollständigen Zentralisation aus, und es war vielfach zu einer Lieblingsansicht geworden, dass, wie nur ein Heer, so auch nur ein Recht bestehen und dass die ganze Eidgenossenschaft durch dieses eine Recht regiert werden sollte. || Dieser Anschauung trat jedoch ein grosser Theil in der Bevölkerung nicht bei. || Um hier den Widerspruch der Ansichten auszugleichen, vereinigte man sich dahin, dem Bunde die Gesezgebung nur in Beziehung auf solche Materien zuzuweisen, welche mit dem allgemeinen Verkehre in näherm Zusammenhange stehen und welche, da gerade hier eine gänzliche Umgestaltung eingetreten ist, ohne grössere Benachtheiligung des Nachbars dem einzelnen Kantone nicht weiter überlassen bleiben können. || Die übrigen Rechtsmaterien und gerade diejenigen, mit denen persönliche oder örtliche Interessen aufs engste verwachsen sind, bleiben nach wie vor der kantonalen Gesezgebung anheimgestellt; so ausser dem Strafrechte insbesondere auch das Erbrecht, das eheliche Güterrecht und die Regelung des Hypothekarwesens im engern Sinne. || Werden so wichtige Attribute und Ausflüsse der Souveränetät dem Bunde abgetreten, so war es um so mehr angezeigt, dem Volke in Beziehung auf die Bundesgesezgebung eine gewisse Mitwirkung vorzubehalten und einer Anzahl von Bürgern oder von Kantonen ein Einspruchsrecht zu sichern. || Diese Bestimmung erschien um so gerechtfertigter, weil in den meisten Kantonen die unmittelbare Theilnahme des Volkes an der Gesezgebung in dieser oder jener Form, in geringerm oder grösserm Maassstabe, bereits Eingang gefunden hat. || Im Zusammenhange hiemit berühren wir die wichtigere Stellung, welche dem Bundesgerichte angewiesen wird, dessen Wirksamkeit bedeutend erweitert ist und dem fortan eine Reihe von Geschäften zugewiesen werden soll, welche bisanhin völlig unangemessen den politischen Behörden zur Erledigung übertragen waren. || Berühren wir die mehr persönlichen Rechte, so war in erster Linie darauf Bedacht zu nehmen, die Stellung der Niedergelassenen der Gerechtigkeit entsprechender einzurichten. — Wenn bereits 300,000 Bürger in andern als in ihrem Heimatkantone wohnen und dort ihre Kräfte zur Geltung bringen müssen, und wenn man sich gestehen muss, dass bei den gegenwärtigen Verkehrsverhältnissen die Menschen immer weniger auf einen kleinen Raum eingeschränkt werden können oder dürfen, so kann es keinem billig Denkenden entgehen, dass auch diese Klasse von Bürgern eine nähere Aufmerksamkeit durchaus verdiene, dass ihnen, welche alle Pflichten der Bürger tragen müssen, auch bessere Rechte, als es hie und da noch der Fall war, einzuräumen seien, soweit dies ohne Beeinträchtigung anderer Rechte immer nur geschehen kann. || Von grosser und tiefgehender Bedeutung ist der Abschnitt, welcher von den kirchlich-religiösen Verhältnissen handelt. || An die Spize des Abschnittes wird die unbedingte Glaubens- und Gewissensfreiheit gestellt, womit in wenig Worten Alles gesagt sein möchte. Auf einem Gebiete, welches dasjenige umfasst, was für das menschliche Gemüth vom wichtigsten und theuersten Inhalte ist, wo der Sterbliche dem Unendlichen sich anzunähern versucht, da sollen die zur Mündigkeit herangereiften Staats-

glieder einem unwürdigen äussern Zwange nicht mehr unterliegen, da sollen sie nur Gott und ihrem Gewissen verantwortlich sein. — Aufgabe des Staates ist es aber, sie in diesem Heiligthume zu schüzen, und nicht zuzugeben, dass irgend eine religiöse Körperschaft aus eigener, sich selbst beigelegter Machtvollkommenheit seinen Gesezen ihre Sazungen und Dekrete gegenüberstelle und für diese den Vorrang, wohl gar die höhere Berufung, selbst in Anspruch nehme. In einem solchen Zustande läge die Anarchie; mit ihm wäre ein nach heutigen Begriffen organisirter Staat unmöglich; er würde zu Folgen führen, welche mit einer geläuterten Staatsidee in unversöhnlichstem Widerspruche stünden. || Hiemit ist denn aber auch die wirkliche oder vorgebliche Besorgniss, dass es auf die Verkümmerung dieser oder jener religiösen Genossenschaft abgesehen sei, in ihrer vollen Nichtigkeit erwiesen. Im vernünftigen Staate hat jede sittlich-religiöse Genossenschaft freien und ganzen Raum, sofern sie der Autorität des Alles in sich begreifenden, alle Lebensverhältnisse durchdringenden und schüzenden Staates sich unterzieht und sofern sie die übrigen ähnlichen Genossenschaften als ebenbürtige zu achten und anzuerkennen weiss. || Endlich berühren wir noch den Umstand, dass der neue Entwurf den Bund bestimmter als bisher ermächtigt, die höhern geistigen Interessen näher wahrzunehmen und nach Möglichkeit zu fördern. Insbesondere soll er darüber wachen, dass in allen Kantonen ein genügender, unter staatlicher Leitung stehender Unterricht ertheilt werde, dass dieser Unterricht allgemein verbindlich und unentgeltlich sei; damit soll der heranwachsenden Jugend eine ihrer Bestimmung gemässe Erziehung gesichert, es sollen dem Kinde des Dürftigen wie des Reichsten die Mittel an die Hand gegeben werden, um sich auf den immer mehr sich verschlingenden Lebenspfaden zurechtzufinden und eine ehrenhafte Lebensstellung sich zu schaffen. || Getreue, liebe Eidgenossen! Wir sind nun weit entfernt, ob der unleugbaren Vorzüge des Entwurfes die Schattenseiten zu vergessen, oder uns zu rühmen, dass, wonach wir ringen, bereits auch schon ergriffen und verwirklicht sei. Wir wissen wohl, dass auch dieses Werk den Stempel des Menschlichen an sich trägt. || Dem Einen mag auch der Kreis der Bundesthätigkeit zu eng gezogen sein, während der Andere damit schon die Grenzen des Zulässigen und mit dem Bundesstaate Vereinbaren überschritten sieht. — Allein das wird Jeder zuzugeben kein Bedenken tragen, dass die Grundlage, auf welcher ein so schwieriges Werk bei der Verschiedenartigkeit so vieler sich durchkreuzender Interessen allein zu Stande kommen konnte, nämlich eine ehrliche, offene Verständigung, eine brüderliche Selbstverleugnung in guten Treuen eingehalten worden ist. Ihr werdet der Arbeit die Anerkennung nicht versagen, dass sie viele schöne und gesunde Keime enthalte, welche, mit Weisheit und politischer Umsicht gepflegt, zu erfreulichen Früchten herangedeihen können; — dass sie manche schlummernde Kräfte entfessle, welche der öffentlichen Wohlfahrt neue Wege zu erschliessen die Verheissung haben; — Ihr werdet ihr die Anerkennung nicht versagen, dass sie redlich trachte, ein Gebäude aufzurichten, in welchem

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bei gegenseitig gutem Willen die 22 Familien des lieben Heimatlandes friedlich und behaglich neben einander wohnen, sich gegenseitig heben und sich befähigen können, in der Erstrebung und Erreichung der höchsten Menschheitszweke mit andern Nationen erfolgreich Schritt zu halten. || Wohl uns, dass auch diesmal die neue Schöpfung ganz und gar nur unser Werk sein durfte, dass wir, frei von äussern Einflüssen, nur unser Wohl und unsere Bedürfnisse zu Rathe ziehen, nur unserer Selbstbestimmung folgen konnten. || Wohl uns aber auch, wenn wir, schon im Hinblike auf den nicht wolkenlosen politischen Horizont, — bei den mannigfachen Widersprüchen im Völkerleben, welche ihrer Lösung harren, den Ruf der Zeit verstehen, die uns dringend mahnt, unsere Geschike wieder dem schirmenden Horte fester, verfassungsmässiger Zustände anheimzugeben und damit das öffentliche Vertrauen zu beleben und neu zu kräftigen. || Von diesem Gedanken getragen, hat die Bundesversammlung am 31. Januar dieses Jahres den vorliegenden Entwurf mit grosser Mehrheit angenommen und uns beauftragt, denselben Eurer hoheitlichen Sanktion zu unterstellen. || Wir treten unsererseits den Ansichten Eurer Vertrauensmänner von ganzem Herzen bei und stehen nicht an, Euch zu rathen, der Vorlage Eure Genehmigung nicht mehr zu versagen. || Mit gleichem Freimuthe bekennen wir, dass wir eine abermalige Verwerfung geradezu als ein öffentliches Missgeschik betrachten müssten, welches vom Vaterlande abzuwenden jeder Bürger auf seinen Sonderstandpunkt zu verzichten und der höhern Nothwendigkeit sich unterzuordnen um so mehr bereit sein wird, als wohl jeder das Gefühl in sich trägt, dass es nachgerade an der Zeit und erspriesslich sei, die Aufregung der lezten Jahre abzuschliessen und in die Bahn einer zwar stetigen, aber ruhigen Fortentwiklung wieder einzulenken. || Wohlan denn, eidgenössische Männer, bereitet Euch, mit gutem Muthe, mit fester Zuversicht und gehobenen eidgenössischen Sinnes dem Tag entgegenzugehn, welcher die grosse Entscheidung bringen und uns eine neue, aussichtsvolle Zukunft eröffnen soll! || Ein Jeder wird in jener ernsten und bedeutungsvollen Stunde nur seinem Gewissen, seiner Ueberzeugung folgen und nur durch die eine heilige Rüksicht sich bestimmen lassen: des Vaterlandes Ehre und Nuzen zu fördern und seinen Schaden zu wenden, treulich und ohne Gefährde, so wahr er bittet, dass ihm Gott helfe. || Hoffen wir, dass die Geschichte in das grosse Lebensbuch der altehrwürdigen und immer jugendfrischen Eidgenossenschaft auch den 19. April des Jahres 1874 als einen Tag des Heils, als einen Tag einzeichnen werde, an den sich noch die Geschlechter, die nach uns kommen werden, liebevoll erinnern, dessen allezeit dankbar segnend sie gedenken können. || Gewähren Volk und Stände der Vorlage diejenige Aufnahme, welche wir ihr wünschen müssen, so können wir diese Ansprache wohl kaum würdiger schliessen, als mit der Bitte, mit welcher die gegenwärtige Bundesverfassung im Jahr 1848 den Weihegruss empfangen hat: || Dass der ewige Lenker der Völkerschiksale auch das neue Grundgesez

zu einer reichen Segensquelle werden lasse für Kind und Kindeskind.

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Bern, den 23. März 1874.

Im Namen des schweizerischen Bundesrathes,

Der Bundespräsident:

Schenk.

Der Kanzler der Eidgenossenschaft:

Schiess.

Das Resultat der Abstimmung war die Annahme des Entwurfs mit 340,199 gegen 198,013 Stimmen, und durch $14^1/_2$ gegen $7^1/_2$ Kantone. Nach amtlicher Feststellung dieses Resultats durch die zu diesem Zwecke auf den 28. Mai einberufene Bundesversammlung ist die revidirte Bundesverfassung am 29. Mai 1874 in Kraft getreten.

Gramont-Beust'scher Streit.

Nr. 5179.

FRANKREICH. — Schreiben des Herzogs von Gramont an einen Freund, veröffentlicht in der "Correspondance Européenne".

Paris, le 9 décembre 1872.

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En m'invitant à répondre à la déposition de Mr. Thiers devant la commission d'enquête parlementaire, vous obéissez à un sentiment de patriotique émotion que je comprends et à une sympathie personnelle dont je suis touché. Mais si facile que puisse être la réponse, je ne la ferai pas. Dans les faits qu'il raconte, Mr. Thiers s'est porté mon accusateur avec un parti pris si évident de malveillance, qu'il a perdu à mes yeux l'autorité impartiale et respectable d'un témoin. Et quand je pense à ce qu'il aurait fallu faire pour obtenir sa justice, je n'ai point à regretter d'avoir encouru sa disgrâce. || Toutefois, si grande que soit ma confiance dans la puissance de la vérité qui tôt ou tard s'impose, je ne saurais rester indifférent à deux assertions dont la légèreté, quoique trop évidente, se déguise sous des affirmations qui pour-

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raient égarer l'opinion publique, sans réussir cependant à tromper l'histoire. || M. Thiers, se faisant l'avocat de la Prusse, déclare que „cette puissance ne voulait pas la guerre, qu'elle ne l'avait pas préparée de longue main et n'avait pas recherché l'occasion d'entrer en lutte". || A ceux qui, pièces en main, ont dit le contraire, il répond en ces termes: „J'affirme, après avoir eu l'occasion de m'éclairer à ce sujet, que c'est là un pur mensonge". || Mensonge! Le mot n'est pas parlementaire. || La conscience publique peut apprécier dès aujourd'hui s'il est juste. Le sentiment national, qui dans ses plus douloureux mécomptes à conservé du moins sa dignité, le trouvera sans excuses. || Pour moi, j'affirme que cette défense si inattendue des intentions innocentes de la Prusse, de l'esprit de modération de M. de Bismarck et de son désir sincère de rester en paix avec la France, étonnera toutes les chancelleries, surtout celle de Berlin, qui ne prévoyait pas de notre part tant d'humilité ou tant de naïveté. || Au surplus, les faits prouvent mieux que les mots, et les preuves sont aussi nombreuses qu'irréfutables. La vérité s'est déjà emparée de l'opinion publique, et il ne serait ni utile ni sérieux de discuter ce que personne ne conteste plus. || La seconde assertion à laquelle je veux répondre se rapporte à ce passage de la déposition de M. Thiers: || „A Vienne, dit-il, MM. de Beust et Andrássy m'ont déclaré à moi, de la manière la plus positive, que, sans prévoir la candidature Hohenzollern, ils avaient dit à M. de Gramont, d'une manière générale, qu'il ne fallait laisser au gouvernement impérial aucune illusion, et le bien convaincre au contraire que, s'il s'engageait dans la guerre, L'Autriche ne l'y suivrait pas". || M. Thiers a-t-il bien entendu ce que MM. de Beust et Andrássy lui ont affirmé m'avoir déclaré? Ne voulant pas contester sa bonne foi, je suis obligé de suspecter sa mémoire, et je ne puis croire que les éminens hommes d'Etat dont il invoque le témoignage aient pu lui dire un seul mot qui ne fut absolument conforme au langage que j'étais autorisé à tenir à mon gouvernement. || Ce langage, le voici textuellement: || „L'Autriche considère la cause de la France comme la sienne, et contribuera au succès de ses armes dans les limites du possible". || Voilà ce que j'ai été chargé de dire au gouvernement français, et ce que d'autres encore ont été chargés de lui répéter avec moi. || Je ne cite pas de mémoire. J'ai fait venir le document que j'ai sous les yeux, et je peux prouver ce que j'avance. || En faussant involontairement l'attitude loyale et sympathique du gouvernement impérial d'Autriche à l'égard de mon pays, M. Thiers m'a créé le devoir d'en rétablir le véritable caractère. Je n'ai pas, pour le moment, un mot de plus à ajouter. || Croyez, mon cher ami, à mes sentiments affectueux.

Duc de Gramont.

Nr. 5180.

FRANKREICH. — Schreiben des Herzogs von Gramont an den Grafen Daru, Vicepräsidenten der parlamentarischen Untersuchungs-Commission über die Akte der Regierung der nationalen Vertheidigung.

Paris, le 28 décembre 1872.

Monsieur le président!

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J'ai eu l'honneur de vous envoyer la lettre que j'ai écrite le 9 décembre, et dans laquelle j'opposais mes souvenirs aux déclarations de M. Thiers dans sa déposition devant la commission d'enquête parlementaire. ‖ Cette lettre, publiée dans les journaux, y soulève, depuis quelques jours, une polémique d'une grande violence. ‖ Pour ma part, j'ai quelque peine à m'expliquer la passion qui envahit cette discussion. Ne dirait-on pas qu'il y va de l'intérêt de la France d'établir qu'en 1870 l'Autriche ne lui était pas sympathique? Ou bien faut-il arriver à cette triste conclusion qu'en France les questions de parti ont seules le privilége de passionner les citoyens? ‖ On me rendra du moins cette justice que ce n'est pas moi qui ai provoqué ce débat. Pendant plus de deux ans j'ai gardé le silence, laissant toute la liberté du champ à ceux qui voulaient m'attaquer. ‖ Il a fallu, pour me faire parler, que la déposition de M. Thiers vît le jour et qu'elle livrât au public des affirmations capables de l'induire en erreur. ‖ Cette intervention inusitée du chef de l'Etat a créé une situation nouvelle et exceptionnelle dont je décline la responsabilité, et qui m'a imposé de nouveaux devoirs. ‖ Qu'ai-je fait alors? J'ai fait venir mes papiers, que je ne garde jamais à mon domicile, et j'y ai cherché la vérité pour l'opposer aux déclarations inexactes. ‖ Partisan de la réserve comme j'en ai donné la preuve à la commission d'enquête, me résignant à regret et contraint à sortir de celle que je m'étais imposée jusqu'à ce jour malgré de bien vives et de bien respectables sollicitations, j'ai dit ce que je croyais suffisant pour convaincre. ‖ J'ai réussi dans une grande proportion, j'en ai la preuve dans les témoignages qui affluent de toutes parts et me sont aussi précieux qu'honorables. ‖ Mais, d'un autre côté, je vois des esprits sérieux, animés du désir sincère et loyal de trouver la vérité et de la dégager, quelle qu'elle soit, de cette multitude d'affirmations qui se croisent, je les vois, dis-je, réclamer avec instance une démonstration plus complète et plus positive. ‖ Puisqu'il le faut, j'y consens, mais alors c'est à vous, monsieur le président, dont j'ai pu apprécier dans les séances de la commission d'enquête parlementaire l'esprit indépendant et impartial, c'est à vous que j'adresse une explication complémentaire que j'avais réservée. ‖ Du moment que j'ajoute quelque chose à ma déposition, ce que j'ajoute appartient de droit à la commission d'enquête nationale, et je ne puis choisir, pour le lui faire parvenir, de meilleur intermédiaire qu'un de ses honorables présidents qui possède toute sa

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confiance, et qui la mérite à si juste titre. || Je ne veux ni discuter ni faire de polémique; je me borne à exposer des faits. || Je n'ai jamais prétendu que le cabinet de Vienne ait vu avec plaisir éclater la guerre de 1870; encore moins ai-je pu dire qu'il nous y avait encouragé. Bien au contraire, je suis convaincu que cette guerre l'a surpris péniblement. || Je n'ai jamais parlé de nos relations avec l'Autriche avant la guerre, et vous remarquerez que sur cette question mon silence est absolu. Il le sera aussi longtemps que je le jugerai convenable. || Mais j'affirme que le cabinet de Vienne nous avait promis son concours pour la guerre de 1870, et j'oppose cette affirmation, accompagnée des preuves à l'appui, aux déclarations contraires que M. Thiers place dans sa déposition, soit qu'elles émanent de lui-même directement, soit qu'elles émanent d'autres personnages qu'il a mis en scène. || Voici les faits: || Le 23 juillet 1870, c'est-à-dire bien après la déclaration de guerre, M. l'ambassadeur d'Autriche vint me voir au ministère des affaires étrangères et me remit *deux* dépêches de son gouvernement, portant toutes les deux la date du 20 juillet, en me priant d'en prendre connaissance et me les laissant pour en prendre copie. || L'une de ces dépêches, faite pour être publiée et qui l'a été depuis[1]), posait en principe la neutralité de l'Autriche, mettant un soin particulier à bien établir, par des réserves et des précédents, que cette neutralité n'empêcherait pas les armements qui pourraient paraître utiles au point de vue de la sécurité de l'empire. || Cette neutralité, qui était proclamée d'accord avec nous et dont nous avions le secret, ne devait pas nous inquiéter. Mais, pour prévenir tout malentendu, il y avait comme je viens de le dire, une autre dépêche très complète et très explicite, qui était écrite le même jour[2]), qui me fut remise en même temps et laissée de même par M. l'ambassadeur d'Autriche pour en prendre copie. || Je ne suis pas le seul qui ait reçu la communication du 23 juillet 1870, et qui ait la copie des deux dépêches qui en faisaient l'objet. Cette communication fut faite à Saint-Cloud et à d'autres membres du gouvernement. || Or, c'est de l'une de ces dépêches du 20 juillet 1870, qui m'ont été remises par M. l'ambassadeur d'Autriche, signées par M. le ministre des affaires étrangères d'Autriche, c'est de l'une de ces dépêches, de celle qu'on n'a pas jugé à propos de publier, que, laissant de côté d'autres parties dont la divulgation ne me paraît pas opportune, ni justifiée, c'est, dis-je, de cette dépêche que j'ai extrait le passage suivant: || „Veuillez donc *répéter* à Sa Majesté et à ses ministres que nous considérons la cause de la France comme la nôtre, et que nous contribuerons au succès de ses armes dans les limites du possible". || Voilà donc ce que M. le prince de Metternich était chargé de *répéter* à l'empereur et a ses ministres. Puisqu'il recevait l'ordre de le répéter, cela indique qu'il l'avait déjà dit; et, en effet, fidèle à ses instructions, il ne tenait pas un autre langage. || J'ajouterai

[1]) S. Staatsarchiv Bd. XIX. Nr. 4050. A. d. Red.

[2]) S. unter Nr. 5184. A. d. Red.

enfin que les assurances de concours envoyées le 20 juillet, remises et répétées le 23, avaient été également directement confirmées le 21 par M. le ministre des affaires étrangères lui-même. || On pourra discuter des journées entières sur les causes de la guerre; on ne parviendra jamais à effacer le caractère officiel de ces communications ni à empêcher qu'elles aient été faites. || Et maintenant, je le demande à tout honnête homme, est-il vrai, oui ou non, que l'Autriche nous avait promis son concours pour la guerre de 1870?

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Le Duc de Gramont.

Nr. 5181.

OESTERREICH-UNGARN. — Schreiben des Grafen Beust an den Herzog von Gramont mit Copie einer Depesche an den Fürsten Metternich vom 11. Juli 1870.

Monsieur le duc!

Nr. 5181. Oesterreich-Ungarn. 4. Jan. 1873.

La lettre que vous m'avez fait l'honneur de m'adresser, en réponse à la mienne du 20 du mois passé[1]), ne m'est parvenu que le 31, notre ambassade l'ayant retenue, faute d'une occasion sûre. Je m'empresse de vous en offrir mes remercîments. || Je ne me plains pas des publications que vous avez jugées opportunes. Il est vrai qu'elles devaient nécessairement provoquer une polémique regrettable avec laquelle, dans ma position actuelle, il m'était difficile d'entrer en lutte; aussi y suis-je resté complétement étranger. Mais comme j'ai la conviction d'avoir consciencieusement rempli mes devoirs envers mon souverain et mon pays, et que j'ai la satisfaction de vous entendre dire, comme vous le faites dans la première des lettres publiées par les journaux, que l'attitude de l'Autriche était sympathique et loyale, j'ai aussi la certitude que cet incident n'aura servi ni à compromettre les bons rapports de mon pays avec l'Allemagne ni à refroidir les sentiments de sympathie et d'estime qu'on nous a gardées en France. Et c'est là l'essentiel. || Je ne vous dissimule pas que moi j'ai également éprouvé un sentiment de surprise. C'est que je n'ai pu m'empêcher de me souvenir de la visite que vous avez bien voulu me faire à Londres. Nous avons beaucoup causé des événements de 1870 et vous m'avez dit sans réserve que vous aviez compris notre manière d'agir et vous ne m'avez adressé aucun reproche. Il est sûr qu'aujourd'hui vous ne m'en faites pas non plus, mais convenez que vous en mettez invo-

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[1]) Das hier erwähnte Schreiben des Grafen Beust vom 20. December 1872 und die Antwort des Herzogs von Gramont vom 21. December sind der Unterzeichneten trotz vielfacher Bemühungen nicht zugänglich gewesen. Doch ergiebt sich ihr Inhalt zur Genüge aus dem hier mitgetheilten Schreiben. A. d. Red.

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lontairement sans doute, dans la bouche de ceux qui vous entendent. Et le reproche est-il permis? Positivement non. || Permettez-moi d'abord de vous faire observer que les paroles soulignées dans votre première lettre et qui se retrouvent dans une des miennes écrites *après la déclaration de guerre* ne pouvaient être un argument contre ce que M. le Président de la République se souvient avoir entendu à Vienne, puisque ce passage de sa déposition se rapporte très clairement à l'époque où nous avions l'honneur de vous y voir comme ambassadeur. Voilà pourquoi, Monsieur le duc, je vous ai demandé aussitôt la date du document auquel vous faisiez allusion, car il était impossible qu'il appartînt au temps de votre ambassade. Il est cependant très essentiel de relever les dates, car si vous aviez été comme ambassadeur à Vienne autorisé à tenir, comme vous le dites, ce même langage à votre gouvernement, il s'ensuivrait que nous aurions encouragé la France à faire la guerre, tandis que c'est le contraire que nous avons fait. || Je vois par une seconde lettre, publiée par les journaux, que vous appelez l'attention sur le mot *répéter* qui prouverait qu'un langage identique avait été tenu antérieurement par le prince de Metternich. Je vous en demande pardon, mais n'est-ce pas un peu jouer sur les mots? Il me serait permis d'objecter que le mot *répéter* ne s'emploie pas seulement dans le sens de la redite, mais encore, et surtout en termes de diplomatie, pour engager quelqu'un à dire à un tiers ce qu'on lui a dit à lui-même. || Rien ensuite ne prouverait, en admettant même votre interprétation, que la même chose ait été dite antérieurement à la déclaration de guerre. Mais je n'ai besoin d'aucune subtilité. Puisque vous dites que le prince de Metternich, fidèle à ses instructions, n'a jamais tenu un autre langage, je prends la liberté de vous envoyer ci-joint copie d'une dépêche qui lui fut adressée dans le moment décisif, et je suis bien sûr que notre ambassadeur, fidèle à ses instructions, n'a pas oublié d'y conformer son langage. || Maintenant, passons succinctement en revue ce qui est intervenu entre les deux gouvernements. || Vous me rappelez une négociation des années 1869 et 1870. D'abord, ce que vous avez en vue n'appartient pas, voilà ce qui est encore important à constater à 1869 et 1870, mais à 1868 et 1869. Ensuite, je ne crois pas que le mot de négociation y soit applicable. Une négociation aurait été confiée aux ambassades. Il y a eu des échanges d'idées et de projets et vous voudrez bien vous rappeler que c'était à ma demande que je fus autorisé à vous en donner connaissance lors de votre entrée au ministère. Cette correspondance revêtue d'un caractère tout privé fut terminée en 1869 sans avoir abouti; il n'y a eu absolument rien de signé, mais, comme vous avez dû vous en convaincre par sa lecture, trois points la caractérisaient. L'entente avait un caractère défensif et un but pacifique, il devait y avoir dans toutes les questions diplomatiques une politique commune, et l'Autriche se réservait de déclarer sa neutralité dans le cas où la France se verrait forcée de faire la guerre. || Vous conviendrez que nous nous sommes conformés au troisième point et ce n'est pas nous qui avons dévié des deux autres. Mais, je le répète, rien n'a

été conclu, ce qui est peut-être regrettable; car si on avait signé, la nécessité de nous faire intervenir dans l'action diplomatique aurait, j'aime à le croire, certainement empêché la guerre. || Le seul engagement qui en est résulté, sans, toutefois, avoir jamais été revêtu de la forme d'un traité, consistait dans une promesse réciproque de ne pas s'entendre avec une troisième puissance à l'insu l'un de l'autre. || Vous verrez, par l'annexe déjà citée portant la date du 11 juillet 1870, que nous nous sommes souvenus de cet engagement, qu'il n'en existait pas d'autre, mais que nous nous sommes plu à l'interpréter dans son application large, en promettant le concours de notre action diplomatique. || Or, le passage, que vous avez cité, prend expressément pour point de départ „la fidélité à nos engagements" et c'est en se rappelant ceux-ci tels que je viens de les préciser qu'il faut apprécier la portée réelle des deux lettres dont vous avez fait mention. || Je ne sais pas à quoi se rapportent vos paroles lorsqu'enfin vous rappelez la négociation d'un traité d'alliance défensive et offensive contre la Prusse, qui aurait été négocié entre la France et l'Autriche depuis plusieurs mois; ce que je sais, c'est que la proposition nous en a été seulement faite après la déclaration de la guerre et que, pour des raisons qu'il est inutile de rappeler, nous l'avons déclinée sans hésitation et bien avant que les hostilités n'eussent commencé. || C'est parce que nous nous trouvions dans cette impérieuse nécessité que nous nous sommes efforcés de rendre notre neutralité acceptable à la France sans que pour cela on en ait pu conclure que nous lui offrions notre intervention armée. || Il est donc clairement établi que lorsque la France a déclaré la guerre, pas un mot n'avait été dit ni écrit qui l'eût autorisée à compter sur le concours militaire de l'Autriche, et en conscience, Monsieur le duc, la guerre une fois déclarée, ces lettres du 21 juillet vous ont-elles sérieusement fait penser alors que vous pouviez mettre en ligne de compte une intervention de l'Autriche à main armée? Vous êtes resté aux affaires plusieurs semaines encore pendant que les événements de la guerre se sont rapidement succédé, et veuillez donc me citer un télégrammme ou une dépêche partie pour Vienne pour rappeler à l'Autriche ses engagements et pour hâter ses opérations militaires. Assurément, Monsieur le duc, telle n'a pas été alors votre pensée; ainsi que l'a fait votre successeur M. le prince de la Tour d'Auvergne qui se trouvait au courant de tout ce qui avait été dit et écrit, et qui avait parfaitement jugé, à Vienne, la situation du premier coup d'oeil, vous avez reconnu qu'il n'y avait à attendre de l'Autriche qu'une action bienveillante auprès des neutres et à cette tâche-là nous n'avons point failli. || Agréez, etc. etc.

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Beilage.

Copie d'une dépêche au prince de Metternich à Paris, en date de Vienne, le 11 juillet 1870.

Ma lettre du 9 vous a déjà indiqué quel est notre point de vue dans la question espagnole et le langage que vous avez à tenir à Paris. La gravité toujours croissante de la situation me fait un devoir de revenir encore aujourd'hui sur ce sujet afin de bien préciser ma pensée et de vous mettre à même de l'interpréter. || La seule communication officielle que m'ait faite le chargé d'affaires de France est celle dont parle ma dépêche ostensible de ce jour. Je dois rendre au duc de Gramont la justice qu'il ne réclame dans cette pièce qu'un concours diplomatique sur lequel il peut entièrement compter et dont nous lui avons déjà donné des témoignages. Mais après s'être acquitté de cette communication, le marquis de Cazaux a ajouté que, par suites de lettres particulières qu'il avait reçues du duc de Gramont, il se croyait autorisé à m'entretenir "académiquement" de la question de guerre. "Notez bien", a-t-il dit, "qu'à cet égard je n'ai pas à vous parler au nom de mon gouvernement". Malgré ce préambule, j'ai vu clairement que M. de Cazaux était chargé de sonder le terrain et de s'assurer si notre concours n'irait pas au delà d'une action diplomatique dans le cas où la guerre viendrait à éclater entre la France et la Prusse. Les insinuations de M. de Cazaux trouvent d'ailleurs leur commentaire dans le langage moins ambigu qui vous a été tenu par M. Ollivier, aussi bien que par le duc de Gramont. || Il est important qu'il n'y ait point de malentendu sur ce point entre nous et le gouvernement français. Je tiens surtout à ce que l'empereur Napoléon et ses ministres ne se fassent pas l'illusion de croire qu'ils peuvent nous entraîner simplement à leur gré au delà de ce que nous avons promis et au delà de la limite qui nous est tracée par nos intérêts vitaux, aussi bien que par notre situation matérielle. || Parler avec assurance, ainsi que l'aurait fait, selon vos rapports, le duc de Gramont dans le conseil des ministres, du corps d'observation que nous placerions en Bohême, c'est pour le moins s'avancer bien hardiment. Rien n'autorise le duc à compter sur une mesure pareille de notre part, et la loyauté nous impose le devoir de ne pas laisser le gouvernement français faire entrer cette combinaison dans ses calculs. || Le seul engagement que nous ayons contracté réciproquement consiste à ne pas nous entendre avec une puissance tierce à l'insu l'un de l'autre. Cet engagement, nous le tiendrons scrupuleusement, ainsi que je vous le disais dans ma lettre du 9, et la France peut, par conséquent, être parfaitement sûre que nous ne nouerons derrière son dos aucune négociation avec la Prusse, ni avec une autre puissance, ce qui est pour elle, en cas de guerre, une garantie importante de sécurité. Nous nous déclarons en outre hautement les sincères amis de la France, et le concours de notre action diplomatique lui est entièrement acquis. C'est là un

second point qui n'est pas à dédaigner, mais c'est à cela seul que se bornent nos engagements positifs. || Le cas de guerre a bien été discuté dans des pourparlers. Toutefois, rien n'a été arrêté, et même si on voulait donner une valeur plus réelle aux projets restés à l'état d'ébauche et qui, ne l'oublions pas, avaient pour but déclaré non les préparatifs d'une guerre, mais le maintien de la paix, ainsi qu'aux observations échangées, on ne saurait en tirer la conséquence que nous serions tenus à une demonstration armée, dès qu'il conviendrait à la France de nous la demander. Je n'ai pas besoin de vous rappeler qu'en examinant les éventualités de guerre, nous avons toujours déclaré que nous nous engagerions volontiers à entrer activement en scène, si la Russie prenait le parti de la Prusse, mais que si celle-ci seule était en guerre avec la France nous nous réservions le droit de rester neutres. J'admettais bien et j'admets encore que telles circonstances peuvent se présenter où notre intérêt même nous commanderait de sortir d'une attitude de stricte neutralité, mais je me suis toujours positivement refusé à contracter sous ce rapport un engagement. J'ai revendiqué alors, comme je revendique maintenant, une entière liberté d'action pour l'empire austro-hongrois, et si j'ai maintenu avec fermeté ce point quand il s'agissait de signer un traité d'alliance, je dois moins que jamais me considérer comme ayant les mains liées aujourd'hui où un traité n'a pas été conclu. || Cette argumentation me paraît claire et irréfutable. Je ne concevrais pas que l'empereur Napoléon, ou le duc de Gramont, pût interpréter autrement ce qui s'est dit alors et nous regarder comme engagés à une démonstration armée. || Je vais d'ailleurs plus loin et je dirai que même si nous avions promis un concours matériel en cas de guerre entre la France et la Prusse, ce n'aurait jamais été que comme le corollaire d'une politique suivie d'un commun accord. Jamais nous n'aurions songé et aucun Etat ne songerait jamais à se mettre vis-à-vis d'un autre dans une situation de dépendance telle qu'il dût prendre les armes uniquement selon le bon plaisir de l'autre. L'empereur Napoléon nous a promis de venir à notre secours si nous étions attaqués par la Prusse; mais sans doute il ne se croit pas obligé d'emboîter le pas derrière nous, s'il nous prend fantaisie de déclarer la guerre à la Prusse sans son assentiment. || Mais la France, alléguera-t-on, n'est pas, dans la circonstance actuelle, l'agresseur. C'est la Prusse qui provoque la guerre, si elle ne retire pas la candidature du prince de Hohenzollern. || C'est un point qu'il est indispensable d'examiner. Je veux m'expliquer à cet égard avec une entière sincérité et en véritable ami de la France. || Dans tous nos pourparlers confidentiels avec le gouvernement français, nous avons toujours pris pour point de départ que nous voulions avant tout le maintien de la paix et que nous n'aurions recours à la guerre que si elle était nécessaire. L'est-elle dans le cas présent? Elle le deviendra peut-être, mais assurément ce sera dû en grande partie à l'attitude prise dès le principe par la France, car la candidature du prince de Hohenzollern n'était pas un fait de nature à mener par lui-même à cette con-

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séquence. || Que la France ne fût pas réstée indifférente à cet incident, rien de plus juste. Qu'elle y vît d'abord un manque de procédés à son égard et par conséquent une atteinte à sa dignité rien de plus naturel. Qu'elle déclare ses intérêts menacés par l'avénement d'un prince prussien au trône d'Espagne, c'est encore là un fait contre lequel il n'y aurait rien à redire. Il y avait en ceci l'occasion d'engager une campagne diplomatique où la France avait la partie fort belle, où la Prusse et l'Espagne étaient évidemment dans leur tort et où l'Europe aurait été toute disposée à se mettre du côté de la France et à exercer sur les deux autres puissances une pression qui aurait eu pour résultat, soit de donner pacifiquement une ample satisfaction aux intérêts français, soit d'assurer au gouvernement français un grand ascendant moral si cette satisfaction lui étant refusée, il était contraint à prendre les armes. || Il aurait fallu exposer à l'Espagne dans un langage ferme, mais mesuré, quelles étaient les exigences évidentes de l'intérêt de la France. Des déclarations analogues auraient été données aux cabinets étrangers et ceux-ci se seraient certainement empressés d'offrir à la France un concours actif pour détourner cette cause de complication. La Prusse, sans être prise directement à partie par la France aurait probablement cédé, et la France aurait eu tout l'honneur et le profit de cette campagne. Si, contrairement à toute attente, la Prusse persistait à ne pas faire retirer au prince de Hohenzollern sa candidature, malgré les conseils de l'Europe, la guerre s'ouvrait dans les conditions morales les plus favorables à la France. || Le gouvernement français ne s'est pas conformé dès le début au plan que je viens d'esquisser. Ses premières manifestations ne portent pas le caractère d'une action diplomatique; elles sont bien plutôt une véritable déclaration de guerre adressée à la Prusse en des termes qui jettent l'émoi dans toute l'Europe et lui font croire aisément au dessein prémédité d'amener la guerre à tout prix. Le langage public des ministres français suivi de préparatifs de guerre immédiats rend la retraite difficile aux Prussiens aussi bien qu'aux Espagnols et ne facilite pas aux cabinets la tâche de s'interposer en faveur des intérêts français. Nous aimons encore à espérer que l'affaire pourra rentrer dans une voie plus conforme au point de vue diplomatique, et que la France n'en obtiendra pas moins un succès éclatant. || Cependant les apparences indiquent un peu trop clairement qu'il y a désir, de la part de la France, de chercher querelle aux Prussiens et de tirer parti dans ce but du premier prétexte qui se présente. Les détails que me donnent vos rapports ne peuvent que confirmer cette appréciation, et j'avoue franchement que je vois dans la manière dont cette affaire a été entamée à Paris un motif sérieux pour ne pas sortir d'une certaine réserve. || En effet, si c'est simplement avec passion qu'on aborde à Paris de cette façon la question de la candidature Hohenzollern, cette conduite n'est pas de nature à nous inspirer de la confiance dans l'avenir et à nous donner le désir de nous embarquer sous de pareils auspices. Si ce n'est pas entraînement, il y a donc dessein préconcerté de provoquer la guerre, et ceci est contraire à

tout ce dont nous étions convenus. Dans ce cas, je comprendrais encore moins que l'on comptât sur notre concours. || On trouvera peut-être à Paris ce langage sévère, mais je le crois dicté par une sincère amitié pour la France, aussi bien que par ma sollicitude pour les intérêts qui me sont confiés. Précisez bien comme je l'ai fait la portée de nos engagements; assurez que nous les tiendrons, mais ne cachez pas que nous nous sentons d'autant moins portés à les dépasser que nous ne pouvons approuver la précipitation avec laquelle on pose, sans nécessité évidente et en nous prévenant si peu, la question de guerre. || D'ailleurs, en dehors de ces considérations politiques, il y a des raisons matérielles qui ne nous permettraient pas de prendre une attitude belliqueuse. Le duc de Gramont nous a vus de trop près pour s'y tromper. Même si nous le voulions, nous ne pourrions pas mettre aussi subitement sur pied des forces respectables. Les sacrifices et les efforts que cela exigerait sont tels qu'il faudrait pour les imposer au pays des motifs bien autrement pressants que ceux qu'on pourrait invoquer aujourd'hui. || Nous n'avons jamais dissimulé le besoin impérieux que nous avons de la paix. Si la France trouve l'occasion actuelle favorable pour entrer en campagne, si elle se sent en mesure de déployer dès à présent toutes ses forces, nous ne pouvons en dire autant pour notre part. Ce n'est pas du jour au lendemain que nous pouvons passer ainsi à l'action, et l'opinion du pays tout entier se soulèverait contre le gouvernement s'il se jetait tête baissée dans les périls d'une guerre aussi imprévue. Il faudrait, en tous cas, que cette éventualité se présentât comme une exigence indispensable de la situation, et personne ne voudrait aujourd'hui admettre chez nous l'existence de cette exigence. || Je ne dis pas que telles éventualités ne puissent se présenter qui nous amènent à intervenir dans une lutte engagée sur une question d'influence entre la France et la Prusse, mais à coup sûr ce n'est pas au début de la lutte qui s'engage aujourd'hui qu'on trouvera l'empire austro-hongrois disposé à y entrer. Une attitude bienveillante pour la France, la résolution de ne pas s'entendre avec une autre puissance, voilà tout ce que le gouvernement de l'empereur peut promettre aujourd'hui, s'il ne veut pas être démenti par le sentiment général. || Pénétrez-vous bien des considérations que j'expose dans cette lettre. Je m'en remets à vous avec confiance pour les faire valoir auprès de qui de droit. Il ne faut pas qu'on s'abuse sur ce que nous voulons et surtout sur ce que nous pouvons faire. On est en train de s'engager à Paris dans une bien grosse partie. On est peut-être déjà trop avancé pour reculer, et, dans ce cas, votre tâche principale doit être de veiller à ce qu'on ne se méprenne pas sur nos intentions qui sont sincèrement amicales pour la France, mais qui restent sans doute au-dessous de ce qu'on espère sans trop de motif. Nos services sont acquis dans une certaine mesure, mais cette mesure ne sera pas dépassée, à moins que les événements ne nous y portent, et nous ne songeons pas à nous précipiter dans la guerre uniquement parce que cela conviendrait à la France. Faire accepter cette situation à l'empereur Napoléon et à ses

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ministres, sans provoquer leur mécontentement, voilà la difficulté qui vous attend et dont je compte sur votre zèle et votre influence personnelle pour triompher. Il ne faut pas qu'un accès de mauvaise humeur contre l'Autriche prépare une de ces évolutions subites auxquelles la France nous a malheureusement un peu trop habitués. C'est là un écueil dangereux qu'il s'agit d'éviter: faites donc sonner aussi haut que possible la valeur de nos engagements tels qu'ils existent réellement et notre fidélité à les respecter, afin que l'empereur Napoléon ne s'entende pas tout à coup à nos dépens avec une autre puissance, ce que d'ailleurs nous croyons impossible, puisque ce serait contraire aux engagements réciproques. Insistez sur la réciprocité en ce qui concerne ce point et ayez en outre les yeux bien ouverts. C'est là ma dernière et ma principale recommandation.

Beust.

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OESTERREICH-UNGARN. Min. d. Ausw. (Graf Andrássy) an den k. u. k. Botschafter in Paris (Graf Apponyi). — Uebersendung und Bestätigung des Beust'schen Schreibens.

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Monsieur le comte, j'ai reçu le rapport dans lequel vous me faites part de la lettre que M. le duc de Gramont a publiée en réponse au témoignage donné par M. Thiers devant le comité d'enquête. Je suis loin d'approuver de telles publications qui livrent aux commentaires de la presse des conversations non destinées à aller au-delà du cercle des cabinets y intéressés. Des indiscrétions de cette nature ont pour premier et principal effet de compromettre les confidences qui se font entre les gouvernements et de restreindre l'échange d'idées là où la franchise est spécialement nécessaire pour amener à un résultat heureux. Je me serais donc abstenu de prendre note des assertions posées par le duc de Gramont, si sa lettre ne m'avait pas semblé contenir un langage en tout point contraire à celui que j'ai tenu, en ce qui concerne M. Thiers, et si je ne me croyais pas ainsi dans l'obligation de me rendre garant des déclarations de M. Thiers en ce qu'elles ont de rapport honorable avec moi-même. || Je n'hésite pas à affirmer que M. Thiers à fidèlement reproduit, dans sa déposition, le sens de ce que j'avais eu l'honneur de lui dire lors de sa visite à Vienne, déposition à laquelle je n'ai aujourd'hui à faire aucune altération. J'ai au contraire des raisons de croire que personne n'a été en meilleure position, en tant qu'il s'agisse de ma personnalité, pour confirmer le témoignage du Président de la République, que le duc de Gramont lui-même. Je n'ai jamais dit à M. le duc de Gramont ni à d'autre personne quoi que ce fût qui ressemblât aux expressions qu'il a affirmé être autorisé

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à transmettre à son gouvernement. Tout au contraire, bien que je ne fusse pas ministre des affaires étrangères, j'ai cru de mon devoir de rechercher une occasion de dissiper toutes les illusions que nous ne sentions pas pouvoir encourager sans nous exposer plus tard à des reproches. En effet, si le précédent ministre de France à Vienne était assez bon pour se souvenir de la conversation que j'eus avec lui à l'époque où l'élévation du prince de Hohenzollern était sur le tapis, et où l'on croyait à la possibilité de la coopération de l'Austro-Hongrie au cas d'une guerre avec la Prusse, il lui serait impossible de ne pas reconnaître que ce que j'ai dit à M. Thiers à une époque postérieure était tout à fait en accord avec ce que je lui avais dit à lui-même. || Je ne crois pas nécessaire d'entrer dans les détails de la conversation à laquelle je viens de faire allusion, bien que j'aie en mémoire chacune des paroles qui ont été alors échangées entre nous. J'affirme seulement que le duc de Gramont me remercia de la sincérité de mes explications, aimant mieux, comme il le dit alors, ne pas faire concevoir à son gouvernement des espérances qui pourraient lui causer plus tard un désappointement. Je dois ajouter que, depuis cette conversation, M. de Gramont a toujours évité avec soin de parler de politique avec moi, ce dont je n'ai aucun droit de me plaindre, car je n'étais pas alors ministre des affaires étrangères. || Pour ce qui concerne M. le comte de Beust, comme il se trouvait être le chef du cabinet à l'époque à laquelle ont trait les deux lettres de M. le duc de Gramont, il a cru devoir immédiatement après la publication de la première de ces lettres s'adresser à l'auteur pour obtenir des informations plus précises sur la nature du document invoqué par M. de Gramont à l'appui de son affirmation. M. de Gramont ayant répondu à cette requête, le comte de Beust réplique aujourd'hui par une lettre que je vous envoie sous ce pli afin que vous puissiez la communiquer à qui vous jugerez bon de le faire. Vous remarquerez certainement que la lettre du comte de Beust confirme les déclarations de M. le Président de la République faites devant la commission d'enquête. J'ajouterai que si appel est fait à mon témoignage, je n'hésiterai pas à le donner aussi complètement que possible.

Andrássy.

Nr. 5183.

FRANKREICH. Antwort des Herzogs von Gramont an den Grafen Beust.

Paris, le 8 janvier 1873.

Monsieur le comte!

Nr. 5183. Frankreich. 8. Jan. 1873.

J'ai reçu la lettre que vous m'avez fait l'honneur de m'écrire, en réponse à la mienne du 21 décembre, et je regrette que cette dernière ne vous soit

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parvenue que dix jours après avoir été écrite. Ce délai, comme vous avez pu vous en convaincre, est indépendant de ma volonté. || J'ai lu avec toute l'attention qu'elles méritent les observations que vous ont suggérées les récentes publications que les circonstances m'ont imposées bien à regret; il me semble y trouver la trace de quelque malentendu sur la nature et la portée de mes affirmations, et je crois devoir au bon souvenir de nos anciennes relations de ne laisser subsister à cet égard aucune équivoque. || Mais, avant d'aller plus loin, je dois vous prévenir que je n'accepte en quoi que ce soit la responsabilité de tout ce qui se dit ou s'écrit autour de mes paroles. Je ne réponds que de mon propre langage. || Je crois superflu de vous assurer que ce n'est pas le désir d'une justification personnelle qui m'a mis la plume à la main. S'il en eût été ainsi, je n'aurais pas, pendant deux ans de suite, gardé un silence que je n'avais aucune envie de rompre. || L'incident a été provoqué par le retentissement du langage intempérant et inexact de M. Thiers, qu'il devenait nécessaire pour l'honneur de la France d'arrêter au passage. || Cela posé, vous observerez que je n'ai jamais prétendu que vous nous aviez encouragés à faire la guerre. J'admets parfaitement, parce que c'est la vérité, que vous nous en aviez dissuadés jusqu'au moment où vous avez envoyé à Paris M. le comte de Vitzthum; je n'ai aucune difficulté à reconnaître que le 13 juillet, vous nous avez même conseillé de nous tenir pour satisfaits de la renonciation du prince de Hohenzollern dans les termes où elle s'était produite le 12. Et j'ajoute que je ne doute pas qu'il vous ait été fort pénible d'apprendre que cette circonstance n'avait pas suffi pour éteindre le conflit franco-prussien. || Je reconnais aussi que les promesses de concours dont j'ai cité la formule sont postérieures à la déclaration de guerre, et enfin, je termine ces aveux en déclarant qu'en mon âme et conscience je ne puis adresser aucun reproche au gouvernement autrichien au sujet de la ligne de conduite qu'il a tenue à l'égard de la France et qui lui a été imposée par les événements. Je ne suis pas en mesure d'apprécier la nature des bons rapports qui existent maintenant entre le cabinet de Vienne et celui de Berlin, mais comme l'incident qui nous occupe n'a rien mis en lumière qui ne fût connu à Berlin, il est évident qu'il n'a rien pu compromettre de ce côté, et quant à ce qui nous concerne, la nation française ne peut voir dans ces informations que de nouveaux motifs de sympathie et d'estime pour l'Autriche. Et comme vous le dites avec raison, Monsieur le comte, c'est là l'essentiel. || Vous me rappelez qu'ayant eu l'honneur de vous voir à Londres en 1871, nous avions beaucoup causé des événements de 1870 et qu'alors je vous avais dit, sans réserve, que j'avais compris votre manière d'agir et que je ne vous avais adressé aucun reproche Vos souvenirs sont très exacts. Je n'avais alors, et je n'ai encore aujourd'hui, aucun reproche à vous adresser. Quant au langage que vous a prêté M. Thiers, il est bien naturel que je ne vous en aie pas parlé à Londres, car je ne le connaissais pas et je n'en ai été informé qu'au commencement du mois dernier par la publication de son

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étrange déposition. || J'écarte pour le moment toute controverse sur les négociations de 1868, 1869 et 1870. Cela n'offrirait aucun avantage; je me borne seulement à vous rappeler que ces négociations, dont vous fûtes le premier à m'instruire, étaient restées *ouvertes* (*c'est le mot textuel*) en 1869, et qu'elles ont servi de base et de point de départ au traité qui a été négocié à la fin de juillet 1870, en vue de la guerre et de la coopération de l'Autriche à cette guerre. Donc, la date de 1870 trouve sa place correcte et légitime à côté des dates antérieures de 1868 et 1869. || J'affirme deux choses: || La première, c'est que pendant que j'étais ambassadeur à Vienne, vous ne m'avez pas dit: "qu'il ne fallait laisser au gouvernement impérial aucune illusion, et le bien convaincre, au contraire, que s'il s'engageait dans la guerre l'Autriche ne l'y suivrait pas." || Cette affirmation, je la maintiens avec une certitude parfaite qui s'appuie non pas seulement sur ma mémoire qui est cependant très sûre, mais aussi sur les notes que j'ai conservées. Je n'ai jamais eu, Monsieur le comte, une seule conversation avec vous, fût-elle de quelques minutes, que je n'en aie écrit la substance et souvent les mots eux mêmes, avant la fin de la journée. Aussi, je suis certain de ce que j'avance quand je déclare que vous ne m'avez pas tenu à Vienne le langage que vous prête M. Thiers. || Nous avons souvent parlé de la guerre, nous étions d'accord pour ne pas la désirer, et nous reconnaissions qu'il se faisait en Allemagne un travail qu'il était de l'intérêt de l'Autriche comme de la France de ne pas interrompre. Nous avons quelquefois envisagé l'éventualité de la guerre en thèse générale, et je vois dans mes notes qu'alors vous me représentiez combien il serait désirable que la guerre, si elle devenait nécessaire, naquît d'une cause non allemande; qu'elle prît naissance, par exemple, au sujet de quelque question orientale, de manière à laisser à l'Autriche toute sa liberté d'action pour la part qu'elle serait appelée à y prendre. Je suppose que vos souvenirs seront ici d'accord avec les miens; mais quant aux paroles que M. Thiers a placées dans votre bouche, je n'en vois aucune trace, si ce n'est dans cette dépêche écrite par vous le 11 juillet 1870 à M. l'ambassadeur d'Autriche, et dont je viens de prendre connaissance *pour la première fois*, dans la copie que vous avez bien voulu m'envoyer. || Là, en effet, je vois que vous chargez M. l'ambassadeur de nous enlever toute illusion et de nous faire entendre avec ménagement que nous ne devons pas compter sur votre concours. || Cherchant toujours de préférence les explications qui n'aboutissent pas à des résultats extrêmes, je me fais l'idée qu'il se sera établi dans les esprits quelque confusion involontaire entre le langage *écrit* le 11 juillet 1870 et le langage *parlé* pendant les années précédentes. || Je ne vois pas, d'ailleurs, que, pendant le cours de ma mission à Vienne, il se soit présenté une seule occasion où l'Autriche ait été mise en demeure de se prononcer sur ses dispositions à faire la guerre, et je n'ai jamais eu à réclamer de vous son concours, même éventuel, à cet effet. Ainsi, donc, je le répète et le maintiens formellement, vous ne m'avez jamais, pendant que j'étais ambassadeur à Vienne,

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tenu le langage que vous prête M. Thiers. || J'apprends aujourd'hui que vous l'avez écrit plus tard au prince de Metternich dans cette dépêche du 11 juillet que vous venez de m'envoyer et que je ne connaissais pas, parce que M. l'ambassadeur d'Autriche *ne nous l'a jamais montrée.* || Je vois, en effet, dans la copie que vous venez de m'adresser, que vous recommandez à M. l'ambassadeur d'Autriche d'employer son zèle et son influence pour faire accepter vos réserves à Sa Majesté et à ses ministres, sans provoquer leur mécontentement, et je trouve dans cette communication tardive la clef d'une situation qui nous causa pendant quelques jours d'assez sérieuses préoccupations. Il se fit alors entre vous, M. l'ambassadeur d'Autriche et moi un échange d'explications verbales et écrites, qui eut pour effet de dissiper ce que vous avez appelé des malentendus regrettables. M. le comte de Vitzthum vint à Paris, et aussitôt s'effacèrent toutes les traces de la froideur qu'avaient naturellement engendrée vos réserves, bien que M. l'ambassadeur d'Autriche, suivant vos instructions, n'eût rien négligé pour en adoucir l'expression. || M. de Vitzthum voit l'empereur, il cause avec moi, retourne à Vienne, et c'est aussitôt après son retour que vous écrivez, le 20 juillet, ces mots: || "Le comte Vitzthum a rendu compte à notre auguste maître du message verbal dont l'empereur Napoléon a daigné le charger. Ces paroles impériales, ainsi que les éclaircissements que M. le duc de Gramont a bien voulu y ajouter, ont fait disparaître toute possibilité d'un malentendu que l'imprévu de cette guerre soudaine aurait pu faire naître. Veuillez donc répéter à Sa Majesté et à ses ministres que, fidèles à nos engagements tels qu'ils ont été consignés dans les lettres échangées l'année dernière entre les deux souverains, nous considérons la cause de la France comme la nôtre, et que nous contribuerons au succès de ses armes dans les limites du possible." || Je renonce bien volontiers à donner au mot de *répéter* la signification qui, dites-vous, ne lui appartient pas; mais, d'un autre côté, je ne puis m'empêcher de relever la différence radicale qui existe entre l'attitude du cabinet de Vienne le 20 juillet et celle qu'il paraissait vouloir prendre le 11 dans ce document *inédit* et *inconnu* que vous venez de porter à ma connaissance. Comment se fait-il que le 13 juillet, à la réception de cette dépêche (du 11 juillet), M. l'ambassadeur d'Autriche ne m'ait fait aucune communication du genre de celle qu'il m'a faite le 24 à la réception de votre dépêche du 20? Pourquoi ne m'avait-il pas laissé cette première dépêche comme il m'a laissé la seconde? || Je ne me charge pas de répondre en ce moment à cette question; mais je constate que le 24 juillet j'avais dans mes mains la déclaration qu'il n'existait plus de malentendu entre nous et le cabinet de Vienne, et, de plus, la promesse formelle qu'il contribuerait au succès de nos armes dans la mesure du possible. C'est là ma seconde affirmation, et, vous en conviendrez, elle est indiscutable. || S'agissait il de contribuer au succès de nos armes d'une façon platonique, si je puis m'exprimer ainsi, par des voeux sympathiques, sans jamais tirer l'épée? Je crois qu'il est difficile de l'admettre, et, d'ailleurs, vous aviez pris le soin de

nous rassurer à cet égard, car, vous ajoutiez plus loin: || "Dans ces circonstances, le mot neutralité que nous prononçons, non sans regret, nous est imposé par une nécessité impérieuse et par une appréciation logique de nos intérêts solidaires. "Mais cette neutralité n'est qu'un moyen, le moyen de nous rapprocher du but véritable de notre politique, le seul moyen de compléter nos armements" sans nous exposer à une attaque soudaine, soit de la Prusse, soit de la Russie, avant d'être en mesure de nous défendre." || Et le soir du même jour (24 juillet), M. l'ambassadeur d'Autriche, précisant davantage cette question des armements, m'informait par écrit que, dans l'état où la guerre avait surpris l'Autriche, il ne lui serait pas possible d'entrer en campagne avant le commencement de septembre. || Enfin, bien que la promesse de concours ressorte suffisamment de ce qui précède, et qu'en vérité il me semble superflu d'insister davantage, je vous rappellerai ce qui s'est passé lorsque M. le comte de Vitzthum revint à Paris, et qu'alors, de concert avec M. l'ambassadeur d'Autriche, il posa avec moi les bases, les articles mêmes de ce traité qui déclarait nettement que la neutralité armée des puissances contractantes était destinée à se transformer en coopération effective avec la France contre la Prusse. || Je vous rappellerai que ce sont les représentants de l'Autriche, vos propres plénipotentiaires et mandataires, qui ont suggéré le mode de cette transformation de la *neutralité armée* en *coopération effective*, et que ce mode consistait, une fois prêts, à réclamer de la Prusse, sous forme d'ultimatum, l'engagement de ne rien entreprendre contre le *statu quo* défini par le traité de Prague. Les négociateurs autrichiens disaient alors, avec raison, que le refus de la Prusse était certain et qu'il deviendrait le signal des hostilités combinées. || Et maintenant, Monsieur le comte, vous me demandez si les communications du 20 juillet, ou, pour parler plus correctement, du 24 juillet, jour où je les ai reçues, ont pu me faire "penser sérieusement que nous devions mettre en ligne de compte une intervention de l'Autriche à main armée?" Mais je ne puis faire autrement que de vous retourner la même question. || Du moment où l'Autriche promet de contribuer au succès de nos armes; quand l'Autriche nous explique que la neutralité qu'elle proclame n'est qu'un moyen, que cette neutralité n'est que le moyen de compléter ses armements pour se rapprocher du but véritable de sa politique, lequel but est de contribuer au succès de nos armes; quand son ambassadeur m'écrit que les armées autrichiennes ne pourront entrer en campagne que dans les premiers jours de septembre; quand les plénipotentiaires autrichiens placent dans un traité négocié en ma présence et avec mon concours un article portant que la neutralité armée des puissances contractantes est destinée à être transformée en coopération effective avec la France contre la Prusse; quand ces mêmes plénipotentiaires suggèrent les premiers la manière de procéder diplomatiquement à cette transformation que doivent suivre les hostilités; c'est moi qui vous le demande sérieusement, Monsieur le comte, que devions-nous penser? || Vous ajoutez "qu'étant resté aux affaires plusieurs semaines encore

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pendant que les événements de la guerre se sont rapidement succédé, je n'ai envoyé à Vienne ni un télégramme, ni une dépêche pour *rappeler à l'Autriche ses engagements* et pour hâter ses opérations militaires", et vous en concluez que je ne pouvais croire sérieusement à la coopération d'une armée autrichienne. ‖ Rappeler à l'Autriche ses promesses quand nous nous battions, quelques jours après les avoir reçues! J'avoue que l'idée ne m'en est même pas venue. ‖ Mais si vous croyez que je n'aie pas écrit à notre ambassadeur de recourir à tous les moyens en son pouvoir pour hâter vos opérations militaires, vous êtes dans une grande erreur, et j'ai sous les yeux les minutes de plusieurs dépêches, entre autres de celles que je lui ai adressées le 27 et le 31 juillet et le 3 août, qui n'avaient pas d'autre objet. ‖ Je ne doutais pas des intentions de l'Autriche; je n'en doute pas davantage aujourd'hui, et j'ai la conviction que si nos revers, aussi soudains qu'imprévus, n'avaient rendu son concours impossible, ce concours nous eût été donné comme il nous avait été promis; j'avais, je l'avoue, un peu moins de confiance dans la promptitude de ses préparatifs, bien que je reçusse à cet égard de personnages très compétents des informations rassurantes. ‖ Je termine, Monsieur le comte, cette lettre déjà trop longue, en protestant de nouveau contre toute idée de reproche et de récrimination. Je maintiens mes deux affirmations, mais rien n'est plus loin de ma pensée que de vouloir faire un grief, soit au gouvernement impérial et royal, soit à vous-même de la conduite politique de l'Autriche après nos désastres. Ce serait manquer au plus haut degré de sens pratique et même d'équité que de s'étonner du temps d'arrêt qui a été la conséquence de nos défaites successives et surtout de nos désordres intérieurs. Je dirai même qu'il y aurait de notre part une certaine ingratitude à ne pas reconnaître qu'entre toutes les puissances, l'Autriche a été la dernière à abandonner complétement la France. ‖ J'ai trop longtemps résidé à Vienne pour ne pas apprécier toute la différence, toute la distance qui séparent l'Autriche et son gouvernement de cette phalange de journaux payés par la Prusse et dont plus d'une fois vous avez déploré avec moi, verbalement ou par écrit, la vénalité et l'absence de patriotisme. Nous le savons en France, les sympathies de la véritable Autriche nous ont suivis au-delà de nos revers, et nous ne serions dégagés de la reconnaissance que du jour où il nous serait démontré que son gouvernement cherche à répudier aujourd'hui les sentiments qu'il professait jadis. ‖ Je regrette, Monsieur le comte, d'avoir donné à ma réponse un développement aussi considérable, et je vous prie d'y voir une marque de la considération que j'ai pour vous et pour toutes les communications que vous voulez bien me faire. ‖ Il a fallu un état de choses aussi exceptionnel que celui de mon malheureux pays; il a fallu ce fait aussi étrange qu'incroyable d'un chef d'Etat s'égarant dans les entraînements d'un langage de partisan, pour me faire descendre dans l'arène et quitter ma retraite. Je me hâte d'y rentrer, maintenant que ma tâche est remplie, et j'aimerais à y emporter la confiance que vous ne vous méprenez pas sur le

sentiment qui m'en a arraché pour quelques heures. C'était mon devoir. || Agréez, Monsieur le comte, les assurances de ma haute considération.

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OESTERREICH-UNGARN. — Depesche des Grafen Beust an den Fürsten Metternich vom 20. Juli 1870, veröffentlicht im "Temps" vom 9. April 1874.

Vienne, le 20 juillet 1870.

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Le comte Vitzthum a rendu compte à notre auguste maître du message verbal dont l'empereur Napoléon a daigné le charger. Ces paroles impériales, ainsi que les éclaircissements que M. le duc de Gramont a bien voulu y ajouter, ont fait disparaître toute possibilité d'un malentendu que l'imprévu de cette guerre soudaine aurait pu faire naître. || Veuillez donc répéter à Sa Majesté et á ses ministres que, fidèles à nos engagements tels qu'ils ont été consignés dans les lettres échangées l'année dernière entre les deux souverains, nous considérons la caûse de la France comme la nôtre et que nous contribuerons au succès de ses armes dans les limites du possible. || Ces limites sont déterminées d'une part par nos difficultés intérieures, d'autre part par des considérations politiques de la plus haute importance. Je vous parlerai surtout de ces dernières. — Or, nous croyons savoir, n'en déplaise au général Fleury, que la Russie persévère dans son alliance avec la Prusse, au point que dans certaines éventualités l'intervention des armées moscovites doit être envisagée, non pas comme probable, mais comme certaine. Parmi ces éventualités, celle qui nous concerne nous préoccupe nécessairement le plus. Mais si nous admettons cette préoccupation avec toute la franchise qu'on se doit entre bons alliés, nous pensons que l'empereur Napoléon nous rendra cette justice de ne pas nous taxer d'un étroit égoïsme; nous pensons à lui tout autant qu'à nous. || L'intérêt de la France n'ordonne-t-il pas comme le nôtre d'empêcher que le jeu, engagé à deux, ne se complique trop promptement? Or, nous croyons savoir que notre entrée en campagne amènerait sur le champ celle de la Russie, qui nous menace non-seulement en Gallicie, mais sur le Pruth et sur le Bas-Danube. Neutraliser la Russie, l'amener jusqu'au moment où la saison avancée ne lui permettrait plus de songer à concentrer ses troupes, éviter tout ce qui pourrait lui donner de l'ombrage ou lui fournir un prétexte d'entrer en lice, voilà ce qui doit, pour le moment, être le but ostensible de notre politique. Quo'n ne s'y méprenne pas à Paris: la neutralité de la Russie dépend de la nôtre. Plus celle-là deviendra bienveillante pour la Prusse, plus notre neutralité pourra se montrer sympathique à la

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France. || Comme je l'ai toujours fait pressentir dans nos pourparlers de l'année dernière, nous ne pouvons pas oublier que nos dix millions d'Allemands ne voient dans la guerre actuelle, non pas un duel entre la France et la Prusse, mais le commencement d'une lutte nationale. Nous ne pouvons pas nous dissimuler non plus que les Hongrois, tout disposés qu'ils soient à s'imposer les plus grands sacrifices dès qu'il s'agit de défendre l'empire contre la Russie, se montreront plus réservés dès qu'il s'agira de dépenser leur sang et leur argent pour reconquérir à l'Autriche sa position en Allemagne. || Dans ces circonstances, le mot *neutralité*, que nous ne prononçons pas sans regret, nous est imposé par une nécessité impérieuse et par une appréciation logique de nos intérêts solidaires. Mais cette neutralité n'est qu'un moyen, le moyen de nous rapprocher du but véritable de notre politique, le seul moyen de compléter nos armements sans nous exposer à une attaque soudaine soit de la Prusse, soit de la Russie, avant d'être en mesure de nous défendre. || Toujours est-il que tout en proclamant notre neutralité, nous n'avons pas perdu un instant pour nous mettre en communication avec l'Italie sur la médiation dont l'empereur Napoléon a bien voulu nous laisser l'initiative; les bases nouvelles que vous venez de nous transmettre, atteindront-elles le but que le gouvernement français a eu en vue? || En d'autres termes, seront-elles jugées inacceptables par la Prusse? Nous ne nous en préoccupons guère, et je vous l'ai télégraphié nous les acceptons ces bases, si l'Italie les accepte *comme point de départ d'une action combinée.* || Dans le même télégramme, je vous ai parlé de l'évacuation de Rome, question qu'il importe, selon nous, de ne pas laisser en suspens, mais de résoudre immédiatement. La convention de septembre, qu'on ne se fasse pas illusion à cet égard, ne cadre plus avec la situation. || Nous ne pouvons pas exposer le saint-père à la protection inefficace de ses propres troupes. Le jour où les Français sortiront des Etats pontificaux, il faudrait que les Italiens pussent y entrer de plein droit et de l'assentiment de l'Autriche et de la France. Jamais nous n'aurons les Italiens avec nous de coeur et d'âme si nous ne leur retirons pas leur épine romaine. || Et franchement, ne vaut-il pas mieux savoir le saint-père sous la protection de l'armée italienne que de le voir en butte aux entreprises garibaldiennes? La France, en nous laissant l'honneur de résoudre la question romaine, nous faciliterait beaucoup la tâche de laquelle elle à bien voulu nous laisser l'initiative à Florence. Elle ferait plus: en faisant un acte d'un incontestable libéralisme, elle enlèverait une arme à son ennemi et elle opposerait une digue à ces ébullitions de teutonisme que la Prusse, puissance protestante par excellence, a su faire naître en Allemagne, et que nous craignons doublement à cause de la contagion. Il est heureux que le retour du comte Vimercati coïncidera avec l'arrivée du prince de la Tour d'Auvergne. Beust.

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OESTERREICH-UNGARN. — Aus der Sitzung des ungarischen Abgeordnetenhauses vom 13. Mai 1874. Beantwortung einer Interpellation über die Beust'sche Depesche durch den ungarischen Ministerpräsidenten.

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Ministerpräsident Bittó: In der am 24. v. M. abgehaltenen Sitzung hat der Herr Abgeordnete Daniel Irányi an mich folgende Interpellation gerichtet: „Ist der geehrte Herr Ministerpräsident geneigt, sich darüber Kenntniss zu verschaffen und dem Hause Mittheilung zu machen: || 1. Ob die vom gewesenen Minister des Aeussern Grafen Beust am 20. Juli 1870 an den damaligen Botschafter am französischen Hofe Fürsten Metternich gerichtete, zuerst vom französischen Blatte „Le Temps", dann aber auch von mehreren ausländischen und ungarischen Blättern mitgetheilte Note authentisch sei? || 2. Wenn ja, — ob das zwischen dem österreichisch-ungarischen Hofe einerseits und dem französischen Hofe andererseits im Jahre 1869 zu Stande gekommene geheime Schutz- und Trutzbündniss, welches in dieser Note erwähnt wird, mit Wissen und Einwilligung der ungarischen Regierung geschlossen worden? || 3. Wenn dies der Fall: ist der geehrte Herr Ministerpräsident geneigt, den fraglichen Vertrag auf den Tisch des Hauses niederzulegen?"

Geehrtes Haus! Auf diese Interpellation habe ich die Ehre Folgendes zu antworten: Die in der französischen Zeitung „Le Temps" mitgetheilte Note wurde in der That vom damaligen Minister des Aeussern Grafen Beust an den Botschafter am französischen Hofe Grafen Metternich gerichtet und ist demnach authentisch. Allein indem ich auf die erste Frage des Herrn Abgeordneten bejahend antworte, kann ich die Folgerung nicht für richtig erklären, welche er aus einigen Punkten dieser Note ableitete; ja, ich kann auf Grund von sicheren Daten und Mittheilungen, die mir von Seite des Ministeriums des Aeussern zu Theil wurden, mit ganzer Entschiedenheit behaupten, dass zwischen der österreichisch-ungarischen Monarchie und Frankreich ein Schutz- und Trutzbündniss — welches der Herr Abgeordnete in der Note erwähnt sieht — nicht bestanden. Es ist wahr, dass in dieser Richtung wiederholt Versuche geschahen; allein diese Versuche führten zu keinem Resultate, und zwischen den Regierungen beider Staaten kam eine solche geheime Convention nicht zu Stande, wurde nie unterschrieben. || Jener Passus der fraglichen Note, in welchem auf die im Jahre 1869 gemachten Versprechungen Bezug geschieht, kann sich also auf nichts Anderes beziehen, als auf jenen Enuntiationswechsel, welchem zwischen den beiden Mächten im Jahre 1869 thatsächlich statthatte, und in welchem beide Mächte versprachen, dass sie mit keiner andern Macht eine Vereinbarung treffen werden, ohne einander hiervon im Vorhinein zu verständigen. Nachdem aber der geehrte Herr Abgeordnete zu wissen wünscht, ob die damalige ungarische Regierung von diesen

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Unterhandlungen Kenntniss hatte, muss ich bemerken, dass die ungarische Regierung von diesen Unterhandlungen keine Kenntniss hatte. Hieraus kann aber darum keine Folgerung gegen den Grafen Beust gezogen werden, weil es sich bei den bestehenden Gesetzen und der Natur der Sache nach nicht voraussetzen lässt, dass, falls diese Unterhandlungen zu einem Resultate, zum Abschluss eines Vertrages geführt hätten, der ungarischen Regierung keine Gelegenheit geboten worden wäre, vor Abschluss und Unterzeichnung des Vertrages ihren im Gesetze begründeten Einfluss geltend zu machen. || Das ist, was ich dem geehrten Herrn Abgeordneten zu antworten hatte.

Nr. 5186.

OESTERREICH-UNGARN. — Aus der Sitzung der ungarischen Delegation vom 21. Mai 1874. Beantwortung einer Interpellation über die Beust'sche Depesche durch den gemeinsamen Minister des Auswärtigen.

[Nach der Wiener Zeitung.]

Nr. 5186. Oesterreich-Ungarn. 21. Mai 1874.

In der Generaldebatte über das Budget des Ministeriums des Aeussern ergreift Eduard Zsedényi das Wort und fragt unter starken Ausfällen gegen den Grafen Beust, wie es möglich gewesen, dass seinerzeit auf eine Interpellation Baron Orczy erklärt habe, es seien keinerlei Depeschen vorhanden, trotzdem die jüngst veröffentlichte Neutralitätsnote authentisch ist, und ob mit besonderer Rücksicht auf die Russland betreffende unbesonnene Aeusserung der Minister die Besorgniss darüber nicht zerstreuen könne, dass seit Veröffentlichung dieser Note die durch die Allerhöchsten Begegnungen documentirten guten Beziehungen gestört werden könnten.

Graf Andrássy bedauert zunächst, dass der Interpellant von dem Brauche, Interpellationen in schriftlicher Form mitzutheilen, abgewichen sei, obwohl er ihm das Recht nicht bestreitet, den Minister dort, wo es ihm beliebt, zu interpelliren. Auf jenen Theil, worin der Interpellant die individuelle Ansicht über die Politik Beust's entwickelt, bedauert der Minister schon deshalb nicht eingehen zu können, weil es nach seiner Ansicht nicht nur gegen die Ritterlichkeit, sondern auch gegen die Regeln der Billigkeit verstösst, das Vorgehen eines Mannes dort einer Kritik zu unterziehen, wo der Betreffende nicht zugegen ist, wo er sich nicht vertheidigen, die Situation, in der er sich befand, nicht veranschaulichen kann, und wo er deshalb einem ungerechten Urtheile ausgesetzt sein könnte. (Zustimmung.) Für die wohlwollende Ansicht des Interpellanten, sagt Graf Andrássy, dass ich eine viel entschiedenere und consequentere Politik verfolge als mein Vorgänger, bin ich sehr dankbar; doch

wird er verzeihen, wenn ich hinzufüge, dass mir das Vertrauen, welches in seiner Aeusserung gelegen ist, viel willkommener wäre, wenn es mir nicht auf Kosten eines Anderen wäre dargebracht worden. (Beifall.) || Aus der Antwort, welche der ungarische Ministerpräsident auf eine im Reichstage gestellte Interpellation ertheilte, ist bekannt, dass ich von jenen Verhandlungen und Versuchen keine Kenntniss hatte. Ebenso hat die diesbezügliche Antwort Baron Orczy's den Thatsachen vollkommen entsprochen, da er auch keine Kenntniss davon hatte. Allein hieraus gegen meinen Vorgänger im Amte eine Anklage zu erheben, ist absolut unzulässig, weil ich überzeugt bin, dass diese Anbahnungen und Verhandlungen, ehe sie signirt worden wären oder irgendwie der Monarchie eine Last hätten aufbürden können, gewiss, sowohl im Sinne des Gesetzes als der Natur der Sache nach, auch der ungarischen Regierung wären mitgetheilt worden, sodass dieselbe Gelegenheit gehabt hätte, den ihr gesetzlich zustehenden Einfluss anszuüben. (Zustimmung.) || Zu der Zeit, als die zwischen uns und den in der Note erwähnten Staaten bestehenden intimen und freundschaftlichen Beziehungen zu Stande kamen, für deren Aufrechterhaltung der geehrte Redner besorgt ist, war den betreffenden Regierungen und Staaten, wenn sie auch die Wirksamkeit einzelner Staatsmänner nicht in allen Details kannten, doch im Grossen und Ganzen die Stellung, welche die Staaten und einzelnen Mächte unter jenen Verhältnissen gegen einander eingenommen, gegenseitig wohlbekannt. || Wenn daher diese intimen Beziehungen trotz der Kenntniss der früher eingenommenen Stellung zu Stande gekommen sind, so kann natürlicher Weise nicht befürchtet werden, dass dieselben durch das Publikwerden irgend eines näheren Details in Frage kommen können; ich kann sonach die gestellte Frage entschieden damit beantworten: So wie die Veröffentlichung der Note unsere guten Beziehungen bisher nicht im Geringsten alterirt hat, steht auch nicht zu befürchten, dass die Publication, auf welche sich der Herr Delegirte beruft, oder irgend ein ähnliches Detail, das etwa noch an die Oeffentlichkeit gebracht werden sollte, das bestehende freundschaftliche Verhältniss, sei es zu Russland, welches der Herr Redner genannt hat, sei es zu einer anderen der in der Note erwähnten Mächte, fürder irgendwie in Frage stellen könnte. In dieser Beziehung hoffe ich daher den geehrten Redner vollständig beruhigt zu haben. (Lebhafter allgemeiner Beifall.)

Bethlehem-Angelegenheit*).

Nr. 5187.

FRANKREICH. — Botschafter in Konstantinopel (Graf Vogüé) an den Min. d. Ausw. (M. de Rémusat). — Bericht über Wiederherstellung des Status quo ante in der Bethlehem-Grotte.

Péra, le 19 mars 1873.

Nr. 5187. Frankreich. 19. März 1873.

Monsieur le Ministre, la correspondance directe de Jérusalem vous a sans doute informé de l'incident qui s'est produit dans la Grotte de la Nativité, à Bethléem, et des résultats qu'il a amenés. Avant de vous résumer à mon tour ces détails, permettez-moi de vous rappeler en quelques mots les antécédents de la question. || Vous vous souvenez de l'arrangement conclu autrefois entre M. Bourée et Aali-Pacha pour le rétablissement, dans cette grotte, du *statu quo* altéré par les incidents de mai 1869. Un commissaire ottoman devait remettre en place les tapisseries latines brûlées et les tableaux latins et arméniens disparus: il fut convenu que des tapisseries refaites en France reproduiraient aussi exactement que possible les symboles et les inscriptions des anciennes. Les événements n'ayant pas permis de donner suite à l'exécution de cet arrangement, les circonstances amenèrent entre Server-Pacha et moi la reprise des négociations. Elles aboutirent rapidement à la rédaction d'un ordre viziriel qui prescrivait au Gouverneur de Jérusalem de replacer lui-même les tapisseries et les tableaux, et prévoyait tous les détails avec un soin minutieux. Cet ordre fut expédié au mois de juin 1872, en même temps que les tapisseries exécutées à Paris par vos soins. || Malgré la précision et la netteté de l'ordre viziriel, il ne fut pas exécuté. || Le 28 février dernier, deux religieux grecs furent surpris dérobant un morceau de l'ancienne tapisserie brûlée, dont les lambeaux demeurent en place comme preuve du caractère latin de la tenture primitive. || Cet acte coupable ayant excité la colère des religieux latins, ceux-ci, par représailles, ont posé d'eux-mêmes, et sans aucune des formalités prescrites par l'ordre viziriel, une tenture neuve garnissant toute la grotte. Une rixe s'ensuivit, à laquelle mit fin l'arrivée des troupes et l'occupation militaire du sanctuaire. || Tout en me télégraphiant ces détails, le Consul de France à Jérusalem fit son devoir; il demanda au Pacha la punition des Grecs coupables, et ordonna aux Latins d'enlever les tentures qu'ils avaient indûment posées; en même temps, le Pacha télégraphiait à la Sublime-Porte. Le 3 mars, Khalil-Pacha, alors ministre des affaires

*) Die „Correspondance Générale" des französischen Gelbbuches vom December 1873 bringen wir in anderem Zusammenhange. A. d. Red.

étrangères, m'entretint de l'incident. Il me demanda de ramener les Latins à l'obéissance, s'engageant, de son côté, à faire immédiatement exécuter la lettre vizirielle. Je souscrivis sans discussion à cette proposition équitable, et, le lendemain matin, les ordres partaient pour Jérusalem. Je n'ai eu qu'à me louer de la loyauté et de la décision de Khalil-Pacha. Sa chute, qui suivit de près l'expédition de ces ordres, jeta un certain trouble dans leur exécution. Le Pacha de Jérusalem, de son côté, sollicité par les Patriarches grec et arménien, soulevait de nombreuses objections; l'affaire menaçait de nouveau de traîner en longueur et d'amener de sérieuses complications. Safvet-Pacha, le nouveau Ministre, homme de bon sens et de droiture, comprit l'importance d'une prompte solution. Le jour même de ma première visite officielle, il me proposa l'envoi simultané au Pacha et au Consul d'ordres identiques et catégoriques: les termes en furent vite convenus entre nous; ils ne laissaient aucune place à l'équivoque; ils enjoignaient au Consul d'enlever les tentures indûment posées, et au Pacha d'exécuter la lettre vizirielle dans les vingt-quatre heures. || Le lendemain, 15 mars, à midi, tout était accompli, et un télégramme de M. Crampon m'annonçait que les ordres étaient exécutés. J'ignore encore les détails de l'opération; mais je me plais à espérer que les choses se sont passées régulièrement. Une protestation du Patriarche grec de Jérusalem est parvenue à la Sublime-Porte par le télégraphe; mais je doute que l'on puisse rien trouver à reprendre, soit dans nos actes, soit dans ceux de la Porte, car ils ont été inspirés par le respect de toutes les convenances et de tous les droits. || Veuillez agréer, etc. Vogüé.

Nr. 5187. Frankreich. 19. März 1873.

Nr. 5188.

FRANKREICH. — Consul in Jerusalem an den Min. d. Ausw. — Bericht über ein neues Attentat der Griechen gegen die Lateiner in Bethlehem.

Jérusalem, le 1 mai 1873.

Monsieur le Ministre, un événement, extrêmement grave en lui-même et par les conséquences qu'il peut avoir, s'est produit à Bethléem dans la soirée du 25 au 26 avril. Mon télégramme, en date du 27, l'a déjà fait connaître à Votre Excellence. La copie ci-jointe des deux principales pièces écrites relativement à cette affaire, savoir: une lettre au Gouverneur de la Palestine, en date du 29, et une dépêche télégraphique à l'Ambassadeur, en date d'aujourd'hui, vous mettront à même de juger la situation et d'apprécier l'attitude que j'ai cru devoir prendre. || Les Grecs ont détruit, non-seulement la tapisserie récemment suspendue par les ordres de la Porte, d'accord avec l'Ambassade,

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mais encore tous les autres objets latins, dont il n'est plus resté trace dans le sanctuaire. || Le remplacement immédiat et aussi complet que possible des objets enlevés était un premier point, le plus urgent, le plus essentiel à obtenir, pour empêcher que les Latins ne parussent être exclus du premier sanctuaire de la chrétienté. J'ai pu obtenir, dans les quarante-huit heures, cette première réparation que le Pacha de Jérusalem semblait d'abord décidé à me refuser. Après cinq heures de discussion, dont trois consacrées au seul article de la tapisserie, il a été convenu que le remplacement aurait lieu dans la journée du lendemain, 28. Votre Excellence trouvera ci-joint copie de la note échangée à ce sujet. La nuit fut employée en préparatifs. L'opération a duré deux jours, et, sauf trois articles contestés, dont deux à la vérité sont fort importants, tous les objets ont été remplacés. Les cérémonies religieuses ont repris dès hier leur cours ordinaire. || Il me reste maintenant à poursuivre la répression de l'acte audacieux commis dans la nuit du 25 au 26 avril, et cette seconde partie de ma tâche n'est pas moins importante que la première; elle est peut-être plus difficile. || Veuillez agréer, etc.

E. Crampon.

Beilage.

Schreiben des französischen Consuls in Jerusalem an Nazif-Pascha, Gouverneur von Palestina.

Bethléem, le 29 avril 1873.

Monsieur le Gouverneur, vendredi dernier, 25 courant, pendant la soirée, une bande de malfaiteurs sans nom, recrutée dans les cabarets de Jérusalem, a été conduite à Bethléem par un moine grec. Malgré la présence de vos gendarmes, d'un *bin-bachi* et du drogman du sérail, envoyés par Votre Excellence pour assurer le maintien de l'ordre et calmer l'agitation qui s'était produite dans la matinée, ces hommes ont pu, étant armés, pénétrer librement par la basilique et le couvent grec dans le sanctuaire de la Nativité, en chasser à coups de sabre et de pistolet les religieux latins qui s'y trouvaient, s'en rendre maîtres, l'occuper sans empêchement pendant quelques heures et la saccager en y détruisant ou volant tous les objets appartenant aux Latins, excepté l'*Etoile d'argent*, trop bien fixée dans le marbre pour pouvoir en être arrachée. Six franciscains ont été plus ou moins grièvement blessés. || La Crèche a été dévastée; les lampes d'argent, de riches tentures, des tableaux de prix, des marbres précieux ont éte volés. La nouvelle tapisserie, qui venait d'être posée quarante jours auparavant par ordre du Sultan, a été enlevée avec sa corniche et les lambeaux existant encore de celle qu'on a déjà voulu détruire en 1869 par un incendie. Enfin, tout ce qui était aux Latins a été pillé, détruit ou volé; tandis que tous les objets appartenant aux Grecs,

et qu'il était impossible à des étrangers de reconnaître et de distinguer, sont restés parfaitement intacts. La main savante des sacristains grecs a seule pu diriger ces malfaiteurs dans l'accomplissement d'une tâche aussi bien remplie. || De pareils outrages exigent de promptes et éclatantes réparations. Cependant, aucune des mesures dont j'ai signalé, le lendemain même, l'urgente nécessité, n'a encore été prise par Votre Excellence. Pas un coupable n'a été arrêté, pas un objet n'a été retrouvé, et le couvent grec, complice évident du crime par le passage donné aux malfaiteurs, et le recel au moins temporaire des objets volés, n'a été soumis à aucune poursuite. || En conséquence, en ma qualité de Consul de France, défenseur en Terre-Sainte des intérêts et des droits de toute la chrétienté, responsable de la personne de mes protégés mise en péril par de tels forfaits, je demande à Votre Excellence, dans les vingt-quatre heures: || 1. La destitution du commandant de gendarmerie, qui a laissé envahir et piller le sanctuaire sous ses yeux sans s'y opposer, sans procéder à aucune arrestation, en interdisant aux Latins l'entrée de la basilique, tandis qu'il laissait les communications libres entre le sanctuaire et le couvent grec; || 9. La mise au secret ou le renvoi hors de Terre-Sainte du président grec, qui a livré passage aux malfaiteurs conduits par les moines de son couvent; || 3. L'arrestation préventive des deux moines Strati et Maximo, déjà signalés dans des circonstances récentes par leur violence contre les Latins, et dont j'avais sollicité l'éloignement il y a quinze jours; || 4. Le remplacement aussi complet que possible, suivant la note verbale échangée en date du 27, opération déjà très-avancée, mais non encore achevée, de tous les objets latins existant dans le sanctuaire avant la nuit du 25, et mentionnés dans le procès-verbal d'enquête en date du 26; || 5. La formation, conformément à une note en date d'hier, d'une commission mixte qui aura à poursuivre les coupables, à rechercher les objets trouvés qui ont été volés, et à déterminer, par une estimation aussi exacte que possible, le chiffre des indemnités dûes aux religieux latins pour le dommage qu'ils ont souffert. || Veuillez agréer, etc.

Nr. 5188. Frankreich. 1. Mai 1873.

E. Crampon.

Nr. 5189.

FRANKREICH. — Botschafter in Konstantinopel an den Min. d. Ausw. — Bericht über den Eindruck des Vorfalls in Konstantinopel.

(Extrait.) Péra, le 7 mai 1873.

Monsieur le Ministre, la correspondance de M. Crampon aura porté à votre connaissance les détails des scènes scandaleuses dont Bethléem a été le théâtre; je m'abstiendrai donc de les reproduire longuement et je me bornerai

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à les résumer tout en essayant de vous exposer les causes et les conséquences probables de ces événements. || La communauté grecque de Palestine était fort mécontente de l'appui donné à nos protégés; elle cherchait une revanche dont les Latins, malgré les conseils et les ordres mêmes du Consul de France, ont eu l'imprudence de leur fournir l'occasion. Le 6 avril, jour des Rameaux, la procession latine a passé par une des portes de l'Église qui n'était pas sur son itinéraire habituel, mais qu'elle avait pourtant traversée le jour de l'Épiphanie sans soulever aucune réclamation. Les Grecs, au lieu de protester légalement contre un acte considéré par eux comme une atteinte au *statu quo*, voulurent l'empêcher par la force: une première rixe eut lieu, prélude de violences plus graves. L'autorité locale n'ayant, malgré l'insistance de M. Crampon, pris aucune mesure sérieuse, une nouvelle collision éclata le 25 au matin dans la basilique entre une procession latine et le clergé grec; quel fut l'agresseur? Les renseignements sont contradictoires; toujours est-il qu'une quarantaine de lampes suspendues plus ou moins légalement par les Grecs dans la partie contestée de la basilique furent brisées; quels qu'aient pu être d'ailleurs les torts des Latins, ils ne sauraient, en aucun cas, justifier la profanation sacrilége à laquelle leurs adversaires se sont livrés le soir même. Dans la nuit du 25 au 26, tandis que l'Église était gardée militairement, que les Latins, par mesure de précaution, étaient enfermés dans leur couvent et que deux ou trois franciscains veillaient dans le sanctuaire de la Nativité, la porte intérieure qui fait communiquer le couvent grec avec l'église s'est ouverte, et une bande d'individus armés, conduite par des moines, s'est ruée dans le sanctuaire sans résistance de la part de la troupe: les gardiens latins, blessés à coups de sabre, ont dû fuir, et les profanateurs ont froidement détruit ou emporté tous les objets latins qui décoraient la grotte de la Nativité; l'Étoile d'argent, récemment consolidée, a seule résisté à leurs efforts, mais la tapisserie récemment faite aux frais du Gouvernement français a été anéantie; les lampes d'argent, parmis lesquelles il s'en trouvait d'historiques, ont été volées et, selon toute apparence, cachées dans le couvent grec. || L'arrivée de ces nouvelles à Constantinople causa une certaine émotion: la première pensée du Grand-Vizir fut d'envoyer une commission d'enquête, et des ouvertures me furent faites à ce sujet par le Ministre des Affaires étrangères; je les avais accueillies et déjà le commissaire ottoman avait été désigné, lorsque la Sublime-Porte changea d'avis: d'une part, les nouvelles venues de Bethléem et qui témoignaient d'un certain empressement de l'autorité locale à rétablir l'ordre matériel et l'ordre moral; d'autre part, l'attitude de plusieurs légations étrangères, ont amené ce revirement. Sous prétexte que l'incident était une question d'ordre public et non une question de possession de sanctuaires, et que la vie de sujets italiens, espagnols ou autrichiens pouvait être menacée, mes collègues ont voulu avoir une part, sinon officielle, du moins officieuse à l'enquête: cette intervention, qui pouvait en amener d'autres, n'étant pas, comme la nôtre, basée sur un titre écrit et sur une

tradition incontestée, a inquiété le Cabinet ottoman, et le résultat a été l'ajournement de la commission d'enquête. || J'ai l'honneur de vous communiquer ci-annexée la note que j'ai adressée à ce sujet au Ministre des Affaires étrangères; je joins à cet envoi copie d'une seconde note que j'ai cru devoir lui écrire, les télégrammes de Jérusalem m'ayant signalé les difficultés nouvelles que le Pacha opposait au rétablissement intégral du *statu quo ante* et la partialité évidente qu'il apportait dans la recherche et la punition des coupables. J'aurai soin d'insister dans le même sens pour obtenir une réparation sérieuse, en evitant autant que possible toute complication politique. J'espère sincèrement arriver à ce résultat. || Veuillez agréer, etc.

Nr. 5189. Frankreich. 7. Mai 1873.

Vogüé.

Nr. 5190.

FRANKREICH. — Botschafter in Constantinopel an den Min. d. Ausw. — Meldung, betr. Absendung von Commissarien nach Jerusalem.

(Extrait.) Thérapia, le 20 mai 1873.

Monsieur le Ministre, j'ai insisté auprès de la Porte pour l'envoi d'une commission spéciale à Jérusalem. Le Grand-Vizir s'est rangé à mon avis, et il a désigné le Directeur des cultes, Ziver-Bey, comme commissaire extraordinaire de la Sublime-Porte. De mon côté, j'ai prié M. Roustan, consul de France à Beyrouth, de représenter l'Ambassade de France. Ziver-Bey a quitté Constantinople le 15 mai, et j'ai prévenu M. Roustan par le télégraphe, afin qu'il fît coïncider son arrivée en Terre-Sainte avec celle du commissaire impérial. || J'ai l'honneur de vous adresser ci-joint copie des instructions que j'ai cru devoir envoyer au délégué de l'Ambassade. || Veuillez agréer, etc.

Nr. 5190. Frankreich. 20. Mai 1873.

Vogüé.

Beilage.

Instructions données au délégué français à Jérusalem.

M. Roustan, consul de France, délégué de l'Ambassade de France à Constantinople, pour le règlement de l'affaire de Bethléem, se mettra immédiatement en rapport avec le commissaire extraordinaire de la Sublime-Porte, et procédera, de concert avec lui, aux opérations suivantes: || 1^{0} Rétablissement complet et intégral du *statu quo* violemment détruit dans la grotte de la Nativité par la coupable agression du 25 avril. || A cet effet, on recherchera les objets disparus: ceux qui seront retrouvés seront remis à leur place

Nr. 5190. Frankreich. 20. Mai 1873.

primitive; ceux qui ne seront pas retrouvés seront provisoirement remplacés par des objets similaires. Une partie de cette opération a déjà été accomplie par les soins réunis du Gouverneur de Jérusalem et du Consul de France en cette ville; les commissaires n'auront donc pas à s'occuper de ce qui est déjà terminé, mais ils régleront les points qui sont restés en suspens. || Les objets qui étaient notoirement affectés à l'usage exclusif d'une des communautés au moment de la destruction seront exclusivement rétablis par les soins de ladite communauté. Le rétablissement du *statu quo ante* étant un fait de réparation matérielle qui ne préjuge en rien les droits de chacun, les commissaires n'admettront aucune discussion sur la possession ou la copossession des objets ou des localités, et n'examineront aucune demande en revendication, de quelque côté qu'elle se produise, qu'elle s'appuie ou non sur des firmans impériaux ou sur tout autre document écrit: ils se borneront aux constatations nécessaires pour que la réparation matérielle soit effectuée suivant le principe énoncé au paragraphe précédent. || 2⁰ Enquête sur les événements du 25 avril. Cette enquête aura pour but de constater les faits criminels accomplis à cette date, de rechercher les coupables, de déterminer les responsabilités et de provoquer les mesures nécessaires pour assurer la répression et la réparation des fautes commises.

Nr. 5191.

FRANKREICH. — Consul in Jerusalem an den Min. d. Ausw. — Beschwerde über den türkischen Commissar. Absetzung des Gouverneurs von Palästina.

(Extrait.) Jérusalem, le 12 juin 1873.

Nr. 5191 Frankreich. 12. Juni 1873.

Monsieur le Ministre, Ziver-Bey, commissaire turc, envoyé à Jérusalem pour le règlement des affaires de Bethléem, avait une double tâche à remplir: il devait pourvoir au rétablissement du *statu quo ante* dans le sanctuaire et faire une enquête sur l'événement du 25 avril. || Quant au premier point, non-seulement Ziver-Bey n'a pas rétabli le *statu quo*, mais il y a porté de nouvelles atteintes, et sa partialité pour les Grecs a pris de telles proportions que M. Roustan, délégué français, s'est trouvé dans le cas de lui signifier que s'il laissait enlever aux Latins l'exercice de certains droits demeurés jusqu'à présent hors de contestation, même depuis le 25 avril, il demanderait par télégraphe à être déchargé d'une mission qu'il ne pouvait pas remplir. || Quant au second point, celui de l'enquête, il n'a pas même pu être entamé. || La Porte vient de prendre une mesure d'ordre public qui était nécessaire: elle

a retiré à Nazif-Pacha le gouvernement de la Palestine. J'en ai reçu l'avis avant-hier par un télégramme de l'Ambassade. Le Moutessarif de Beyrouth, Kiamil-Pacha, est nommé gouverneur de Jérusalem. || Veuillez agréer, etc.

Nr. 5191. Frankreich. 12. Juni 1873.

Crampon.

Nr. 5192.

FRANKREICH. — Specialcommissar in Jerusalem an den Min. d. Ausw. (Duc de Broglie). — Bericht über neue Wiederherstellung des Status quo ante.

(Extrait.) Jérusalem, le 18 juillet 1873.

Nr. 5192. Frankreich. 18. Juli 1873.

Monsieur le Duc, le *statu quo* a été rétabli hier dans le sanctuaire de la Nativité à Bethléem, en présence de la commission, du consul de France à Jérusalem et des délégués des patriarcats latin, grec et arménien, et de la Custodie de Terre-Sainte. || L'autel des Mages a été reconstruit, sous nos yeux, avec les matériaux fournis par les Latins et sous la direction des ingénieurs du Gouvernement choisis, à cet effet, par trois commissaires. || L'étoffe qui couvrait la voûte entre l'autel de la Nativité et la Crèche, et que les Grecs contestaient aux Latins, a été remplacée par ces derniers qui ont remis au Gouverneur de Jérusalem un nouveau rideau portant les marques latines, et que Kiamil-Pacha a fixé lui-même à la voûte. || Enfin, les Latins ont replacé, au bas de l'escalier qui porte leur nom, une nouvelle armoire fermant à clef et dont ils conservent l'usage exclusif. || Pour compléter le rétablissement du *statu quo*, il reste encore à replacer quelques plaques de marbre du revêtement de la Crèche, brisées le 25 avril, et qui n'étaient pas prêtes hier. J'ai fait des réserves à ce sujet et j'espère que cette petite réparation ne donnera lieu à aucune difficulté. || Enfin, le passage officiel par la porte de la basilique, qui, postérieurement au 25 avril, avait été retiré au clergé latin, lui a été rendu pour toutes les fonctions ordinaires du culte, telles que baptêmes, mariages, enterrements, transports du viatique. || La question des processions seule a été réservée à l'examen de la Porte et de l'Ambassade, et elle sera l'objet de rapports spéciaux de la part des commissaires. || Veuillez agréer, etc. Roustan.

Nr. 5193.

FRANKREICH. — Botschafter in Konstantinopel an den Min. d. Ausw. — Bericht über den Abschluss der Angelegenheit.

Thérapia, le 6 août 1873.

(Extrait.)

Nr. 5193. Frankreich. 6. Aug. 1873.

Monsieur le Duc, vous avez pu apprécier l'habileté et l'énergie avec lesquelles M. Roustan a su déjouer les intrigues dont il était entouré et obtenir une solution que, dans les circonstances actuelles, nous pouvons considérer comme satisfaisante. Sans entrer dans de longs détails, je vais rapidement résumer l'ensemble des dernières phases de l'affaire. || Vous vous souvenez, Monsieur le Duc, que la Commission avait un double mandat: elle devait rétablir le *statu quo* à Bethléem et faire une enquête sur les événements du 25 avril. || La première partie de ce programme, la plus importante, a été complétement remplie et de la manière la plus satisfaisante pour nous. Le trois points contestés aux Latins, à savoir: la réparation de l'autel *des Mages*, la possession de l'*armoire* de bois située dans l'escalier nord de la grotte et la possession de la bande d'étoffe placée sur la voûte, ont été résolus en faveur des Latins. L'intervention du Commissaire ottoman dans l'acte matériel de la pose de ces objets n'a affaibli en rien les droits de nos protégés que j'ai constatés de nouveau, sans contradiction de la part de Rachid-Pacha, dans un acte officiel dont je vous adresse la copie; je joins également ici copie de la réponse qui m'a été écrite par M. le Ministre des Affaires étrangères. Incidemment la question du passage par la Basilique ayant été soulevée, j'en ai profité pour faire reconnaître le droit des Latins à traverser ce monument pour leurs fonctions paroissiales: c'est un point très-important, sujet de discussions fréquentes, et qui est définitivement réglé. La seconde partie du mandat de la Commission n'a pas été remplie selon la forme primitivement adoptée. D'un commun accord nous avons renoncé à continuer l'enquête, et nous l'avons remplacée par un certain nombre de mesures de répression prises administrativement. L'Évêque grec de Bethléem serait éloigné ainsi que le drogman du couvent grec Anthimos et un certain nombre de coupables subalternes: le drogman du Gouvernement Hadji-Latfallah serait destitué ainsi que le Président du medjlis local Youssouf-Khaldi; ces actes de rigueur devaient compléter l'effet produit par l'éloignement de Nazif-Pacha. Enfin il a été convenu qu'une indemnité serait payée aux Latins par les Grecs. L'incident de Bethléem peut donc être considéré comme clos dans ses parties essentielles, et j'ose espérer, Monsieur le Duc, que vous voudrez bien approuver les termes de l'arrangement que nous avons consenti. || Veuillez agréer, etc.

Vogüé.

Beziehungen mit China.

Nr. 5194.

FRANKREICH. — Min. d. Ausw. an den Gesandten in Peking. (Mr. L. de Geofroy). — Auftrag, eine Audienz der fremden Gesandten beim Kaiser von China zu verlangen.

Versailles, le 3 janvier 1873.

Nr. 5194. Frankreich. 3. Jan. 1873.

Monsieur, la situation que vos dépêches retracent mérite tout notre intérêt et nous pouvons nous en montrer satisfaits, bien que nous devions attendre encore, pour nous prononcer, de connaître comment se terminera la question de l'admission des Représentants étrangers auprès du Souverain de la Chine. La promptitude avec laquelle a été fixée, aussitôt après le mariage de l'Empereur, l'époque à laquelle il serait déclaré majeur, l'affermissement de l'influence du Prince Kong, et la pensée même qui a dicté la communication adressée aux Agents des Puissances amies pour leur annoncer la célébration du mariage, permettent de bien augurer de l'issue des démarches dont vous vous serez peut-être acquitté déjà lorsque vous recevrez cette lettre. Il semble en effet que la prise de possession du pouvoir par le jeune Souverain offre l'occasion la plus favorable de réclamer à Pékin, pour le Corps diplomatique, un traitement égal à celui qu'ont reçu en Europe les Envoyés du Gouvernement chinois, et ce serait dépasser les limites de la prudence qu'il convenait d'apporter dans une affaire de ce genre, que d'en ajourner plus longtemps la discussion. || Recevez, etc. Rémusat.

Nr. 5195.

FRANKREICH. — Gesandter in Peking an den Min. d. Ausw. — Ausführung des Auftrags.

(Extrait.) Pékin, le 25 février 1873.

Nr. 5195. Frankreich. 25. Febr. 1873.

Monsieur le Ministre, le Gouvernement chinois n'a mis aucun retard à nous faire part de la majorité. Le décret par lequel l'Empereur annonce qu'il vient de prendre en main le Gouvernement de ses Etats nous a été envoyé par le Prince Kong le jour même, avant qu'il n'eût paru dans *la Gazette de Pékin*. || Dans cette conjoncture depuis si longtemps attendue et sur laquelle tant de spéculations s'étaient exercées, nous avons, mes collègues et moi, adressé au Prince Kong la réponse collective dont j'ai l'honneur de vous envoyer ci-joint copie. || Veuillez agréer, etc. L. de Geofroy.

Nr. 4909
Frankreich.
25. Febr. 1870.

Beilage.

Note collective.

Pékin, le 24 février 1873.

Les soussignés, Envoyés extraordinaires et Ministres plénipotentiaires de Russie, d'Allemagne, des Etats-Unis de l'Amérique du Nord, de la Grande-Bretagne et de la France, ont reçu, chacun respectivement, la note identique par laquelle S. A. I. le Prince Kong leur a fait savoir que S. M. l'Empereur de la Chine était entré dans sa majorité et qu'à partir du 23 février (26e de la 1re lune du règne Tong-Tche), il a pris en main l'administration de ses Etats. || Les soussignés ne peuvent que se réjouir d'un événement aussi important pour la prospérité de la Chine. Ils manqueraient à leur devoir si, en cette occasion, ils ne demandaient pas à présenter, au nom de leurs Gouvernements, leurs respects et leurs félicitations à Sa Majesté. C'est pourquoi ils prient S. A. de vouloir bien faire parvenir au Trône l'expression de leurs désirs et prendre les ordres de Sa Majesté relativement à leur réception. || Les soussignés prient S. A. I. d'agréer les assurances de leur haute considération.

(*Suivent les signatures.*)

Nr. 5196.

FRANKREICH. — Gesandter in Peking an den Min. d. Ausw. — Verhandlungen über die Audienz.

Pékin, le 13. mars 1873.

Nr. 5196.
Frankreich.
13. März 1873.

Monsieur le Ministre, le 11 de ce mois les Ministres chinois Ouen-Siang, Mao-Tchang-Hi, Cheunn-Kouei-Feunn et Tchong-Heou se sont abouchés avec nous chez notre doyen, le général Vlangaly. Le grand-secrétaire Ouen-Siang, qui a constamment porté la parole, a débuté par répéter les arguments généraux du Gouvernement chinois. Après quoi, il a dit qu'il comprenait que notre désir fût d'être présentés à l'Empereur, mais que la question avait besoin d'être étudiée et que le gouvernement n'y était pas préparé. Il a été nécessaire de lui rappeler qu'il y avait douze ans que la question se discutait et qu'en plus d'une occasion il en avait lui-même ajourné la solution à la majorité du jeune Souverain. Après ces préliminaires, Ouen-Siang s'est décidé à ouvrir, nous a-t-il dit, la voie des accommodements, et il a abordé enfin le point important, le seul qui fasse difficulté, celui du Ko-Teou. Votre Excellence sait que le Ko-Teou consiste à se mettre trois fois à genoux et à frapper neuf fois la terre du front. Ce n'est pas seulement depuis douze ans, mais

depuis deux siècles, que le Ko-Teou est en Chine la pierre d'achoppement des ambassadeurs étrangers. || Ouen-Siang nous a donc proposé ce qu'il appelait un compromis, c'est-à-dire de fléchir le genou à la manière des princes. Les princes, à ce qu'il paraît, s'accroupissent sur leurs talons, mais sont dispensés de frapper la terre du front. Sur notre refus, il nous a demandé si nous avions une contre-proposition à faire; en matière de genuflexion, nous n'en pouvions pas avoir. || La conversation continua ainsi à tourner pendant longtemps dans un cercle vicieux: les Chinois s'obstinant à dire qui'ls faisaient des concessions, tandis que nous n'en offrions aucune, et nous répétions qu'il était inutile de parler du désir qu'on avait de nous accorder l'audience, tant qu'on n'écarterait pas absolument toute condition de genuflexions plus ou moins atténuées. Nous avons fini par demander à Ouen-Siang de nous déclarer positivement si l'Empereur voulait, oui ou non, nous recevoir et quelle réponse serait faite à notre note. || Rien, dans la conclusion un peu confuse de l'entretien, n'empêcherait de supposer que les deux principaux points sont concédés en principe par les Chinois; qu'il ne s'agirait plus que de rechercher une combinaison qui concilie la fierté des princes avec nos exigences. L'impression finale est que, si le résultat de cette conférence n'est pas aussi satisfaisant que nous l'eussions désiré, il n'est pas non plus aussi défavorable que nous eussions pu le craindre. || Veuillez agréer, etc. L. de Geofroy.

Nr. 5196. Frankreich. 13.März1873.

Nr. 5197.

FRANKREICH. — Gesandter in Peking an den Min. d. Ausw. — Weiterer Bericht über die Verhandlungen.

Pékin, le 15 mai 1873.

Monsieur le Ministre, j'ai l'honneur de vous annoncer que le protocole relatif à la question de l'audience a été définitivement arrêté ce matin avec les cinq hauts fonctionnaires du Tsong-ly-Yamen commis à cet effet. Ce document reproduit les propositions et les opinions émises par les ministres chinois ainsi que nos réponses, mais il ne préjuge rien de part et d'autre. Ce sont des considérants sur lesquels l'Empereur fondera sa décision. Il en sera fait un résumé qui sera présenté au Trône; après quoi viendra le décret. J'ai lieu de croire que ce travail prendra une dizaine de jours, et que, par conséquent, du 25 au 30 de ce mois, nous saurons à quoi nous en tenir. || Veuillez agréer etc.

L. de Geofroy.

Nr. 5197. Frankreich. 15. Mai 1873

Nr. 5198.

FRANKREICH. — Gesandter in Peking an den Min. d. Ausw. — Bewilligung der Audienz.

Pékin, le 25 juin 1873.

Nr. 5198. Frankreich. 25. Juni 1873.

Monsieur le Ministre, c'est le 14 de ce mois qu'a enfin paru le décret impérial accordant effectivement l'audience aux Ministres étrangers à Pékin. || Nous verrons très-prochainement le Prince Kong pour lui communiquer la copie figurée de nos lettres et le texte du discours que notre doyen se propose de prononcer. Une dépêche de Son Altesse nous fera ensuite connaître le jour et l'heure fixés pour la réception. || Veuillez agréer, etc.

L. de Geofroy.

Nr. 5199.

FRANKREICH. — Gesandter in Peking an den Min. d. Ausw. — Details über das Ceremoniell der Audienz.

Pékin le 27 juin 1873.

Nr. 5199. Frankreich 27. Juni 1873.

Monsieur le Ministre, sur l'invitation du Prince Kong, nous nous sommes rendus hier au Yamen, où nous avons entendu de la bouche de Son Altesse la confirmation de tous les arrangements conclus ces jours passés. Le Prince, qui, dans toute cette entrevue, s'est montré d'une politesse et d'un empressement extrêmes, a bien voulu nous indiquer la disposition du lieu où s'accomplira la cérémonie et marquer lui-même l'ordre qu'on devra suivre et la place de chacun. || Nous lui avons remis ensuite la copie figurée de nos lettres de créance; notre doyen, M. le général Vlangaly, a ajouté le texte de l'allocution qu'il se propose d'adresser à l'Empereur. J'ai en outre communiqué à Son Altesse la copie figurée de la lettre de M. Thiers relative aux événements de Tien-Tsin, ainsi que les paroles que je prononcerai à cette occasion. Rien n'a fait difficulté. || M. le Ministre des affaires étrangères du Japon, qui avait conclu deux jours auparavant en déclarant qu'il accepterait tout ce que nous proposerions, avait été convoqué avec nous. Il nous a paru que le moment était venu de reconnaître officiellement sa qualité d'ambassadeur. Nous lui avons donc cédé le pas et nous avons déclaré consentir à ce que son audience précédât la nôtre. Nous n'avons eu qu'à nous louer de M. Soyésima durant tout le cours de cette négociation; il nous a donc été agréable de pouvoir lui donner cette satisfaction. Il était, d'ailleurs, bon de montrer que, lorsque nous demandons aux Orientaux d'adopter nos règles, nous ne cherchons pas à leur en refuser le bénéfice. || Veuillez agréer etc.

L. de Geofroy.

Nr. 5200.

FRANKREICH. — Gesandter in Peking an den Min. d. Ausw. — Meldung über die stattgehabte Audienz. — Telegramm.

Pékin, le 29 juin 1873.

Nr. 5200. Frankreich. 29. Juni 1873.

Nous avons été reçus ce matin par l'Empereur et nous lui avons présenté nos lettres de créance. J'ai eu ensuite une audience spéciale pour présenter la lettre relative à l'affaire de Tien-Tsin. Tout s'est très-bien passé.

L. de Geofroy.

Nr. 5201.

GROSSBRITANNIEN. — Gesandter in Peking (Mr. Wade) an den königl. Min. d. Ausw. (Earl Granville). — Ausführlicher Bericht über die Audienz der fremden Gesandten.

Peking, July 7, 1873.

Nr. 5201. Grossbritannien. 7. Juli 1873.

[Extract.] As my telegram of the 29th of June will have informed your Lordship, the Emperor of China on that day gave audience to myself and my colleagues, the Representatives of Russia, the United States, France, and Holland. || It will have been seen from my telegram, that the final settlement of the question was not arrived at without discussions. The negotiations of the last four months have been conducted by the Representatives of four or five Powers acting together. || The Imperial decree in which the audience was first accorded appeared in the manuscript edition of the "Peking Gazette" of the 14th of June, and was communicated to the Legations on the 15th, in a despatch from the Prince of Kung, of which I inclose translation. Foreign Ministers, the Representative of Holland included, were at the same time invited by the Ministers of the Yamên to meet them there upon the 16th. || The chief objections to the decree were two: first, that Foreign Ministers were declared in it to have "humbly begged" or "implored" an audience; secondly, that the words "kuo shu" — Government letter, by which, in official correspondence, the Chinese describe letters of credence, or letter from the Chief of a State — were placed in the text without any of the honour due to the dignity of a foreign Government. It might be added, that the words Envoys or Ministers were referred to with as little formality as they would have been had the persons referred to represented States dependent on China; but irrespectively of the argument advanced by the Chinese, that there was a certain difference in the form employed, there would have been

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naturally an indisposition on the part of foreign Ministers to insist too much on what might have been regarded as offending their personal dignity rather than the dignity of their States. || Remarks on the other two points could not be avoided; and although at the Conference of the 16th, the etiquette to be observed did at last come to be considered, the discussion which occupied the earlier part of the interview had rendered progress so far difficult, that it was not until the 25th instant that the Memorandum of etiquette to be observed at the audience was agreed to by foreign Ministers. This was a revised edition of a Memorandum earlier communicated non-officially, which had been considered in a very lengthy Conference held at the Russian Legation on the 23rd. The paper in its present shape was formally inclosed to us by the Prince of Kung upon the 26th. The Yamên had wished us to sign it, as we had signed the Protocol of the 15th of May, but we had declined. I append translation of this Memorandum. || Upon the afternoon of the same day, the 26th, we met the Prince of Kung by invitation at the Yamên, to communicate translations of our letters of credence, and all conditions to be observed having been carefully reconsidered, upon the 27th His Highness wrote officially to inform us, that the Emperor had verbally given orders for our reception on the 29th. || I shall mention here, that the Japanese Ambassador, Soyésima Panéomi, was also invited to the Yamên on the 26th. The Chinese Ministers left it to us to fix our own precedence, and by common consent the highest place was assigned to the Ambassador of Japan. I may add, that Soyésima had had difficulties of his own to surmount. His Conferences with the Chinese Ministers had been separate, but from his frequent intercourse with us, we had been kept fully informed of what was passing. I feel bound to say, that I think the Government of Japan has every reason to be satisfied with the part played by its Ambassador throughout this negotiation. The knowledge which, as a Japanese, he necessarily possesses of Chinese literature and of the usages of China, deterred him from undue exigence on any point of form, but he showed, at the same time, much firmness and dignity in the assertion of his rights. || It was agreed that Soyésima was to have his audience first. This, both in consideration of his rank as Ambassador, and possibly, because the letter of the Mikado with which he was charged was not a letter of credence, but of congratulation only. The five Representatives holding letters of credence, viz., the Ministers of Russia, America, and France, with myself and Mr. Ferguson, Diplomatic Agent of the Netherlands, were to be received together. The order of proceeding was as follows: — || The place appointed by the Emperor was the Tz'ŭ-Kuang-Ko, or purple pavilion, a large storied building in the grounds west of the palace. The palace itself, that is to say, the precinct designated by foreigners the "forbidden city", lies, as any plan will show, about midway between the east and west outer walls of Peking proper. Round this precinct, at a distance of from a quarter to half a mile, runs an

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enceinte known as the Huang-Ch'êng, usually rendered the Imperial city. This is divided into streets, and, with the exception of the grounds, of which I am about to speak, is generally open to the public. The grounds in question lie westward of the palace, communicating with it towards the southern end of a large piece of water, on the west bank of which is situated the purple pavilion. || A little west of the grounds, but well within the Imperial city, stands the Pei-t'ang, a Romish Cathedral and mission house, built within the last few years upon ground bestowed upon the earlier missionaries in the reign of Kang-hi, and recovered by its present occupants under the Convention of 1860. It was settled that, at 6 in the morning, the five Representatives of Western Powers should meet there. M. Delaplace, the Bishop resident, had been so good as to give us rooms to dress in. || We rendezvoused accordingly at the Pei-t'ang, and were thence escorted by a Minister of the Yamên to the north gate of the palace grounds in our chairs; the thoroughfare across the marble bridge, which spans the piece of water above mentioned, being closed to the public eastward by desire of the Emperor. W had come to the Pei-t'ang through the west of the outer city, large numbers of people being already on the alert to see the foreigners who were to be presented to the Emperor without prostrating themselves. A dense crowd was assembled in the vicinity of the Pei-t'ang for the same purpose. || At the Fu-Hua-Mên, the gate by which the palace grounds are here entered from the north, we left our chairs and were received by the Grand-Secretary and all other Ministers of the Yamên, the Prince and the Ministers Pao and Shên excepted. We had been told that they would be in attendance all the morning on His Majesty. || We proceeded, according to the programme, to the Shih-ying-K'ung, or palace of seasonableness, a temple in which, as circumstances require, the Emperor prays for rain or for cessation of rain. Confectionery, tea, and Chinese wine from the Emperor's buttery were offered us, and, after waiting above an hour, we moved on with the Ministers to a large tent pitched westward of the purple pavilion. || The Emperor did not arrive at the pavilion as soon as we had been led to expect. The reason assigned was the receipt of important despatches from the seat of war in the north-west. The Prince of Kung and the two Ministers with him were already waiting outside the tent to explain the delay, and returned again and again, as it were apologetically, to keep us company with the rest. The grounds were thronged with officials; but except a few men wearing Chinese sabres of antique form, I saw nothing like a soldier in our immediate vicinity. At length, after we had waited in the tent at least an hour and a half, the Japanese Ambassador was summoned to the presence and, his audience ended, came our turn. || In front of the pavilion in which we were received is a great platform of stone, accessible on three sides by flights of steps. We ascended, as it had been agreed, after some debate, we should, by the steps on the western side, and, entering the pavilion, found ourselves

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at once in a large hall divided by wooden pillars in the usual northern style, into five sections. We came into this by the second section from the west, filing into the centre section until we were opposite the throne on which the Emperor was seated at the north end of the hall. Wo then bowed to the Emperor, advanced a few paces and bowed again, then advanced a few paces farther bowing again, and halted before a long yellow table about half way up the hall, I should say some ten or twelve paces distant from the throne. ‖ The throne was, I think, raised above the floor of the dais on which it stood by a couple of steps. The dais itself was separated from the hall by a light rail broken right and left of the throne by low flights of three stairs each. The Emperor was seated Manchu fashion, that is, cross-legged. Upon his left were the Prince of Kung, his brother, known as the seventh Prince, and another Prince, the son of the famous Sangolinsin, who repulsed our attack on the forts of Taku in 1859. To the right of His Majesty stood two other magnates, the nearest being the senior of the hereditary Princes not of the Imperial house; the other, I believe, a son-in-law of the old Emperor, whose name was Pao-kuang. Below on either side was a double rank of high officials, which spread outwards from the throne towards us, until their flanks reached the columns marking the outer line of the centre section in which we were standing. In rear of these were others filling the flank sections east and west up to the walls. ‖ On the whole the spectacle was fair to see, although I should not go so far as to style it imposing. ‖ Our party having halted as I have described, the Minister of Russia, General Vlangaly, as Doyen of the Corps, read aloud an address in French, of which I inclose a copy. A Chinese translation of it had been already shown to the Prince of Kung, and this was then read by M. Bismarck, Secrétaire Interprète of the German Legation, who, as I have reported, had been selected from the first to act as Interpreter-General at our Conferences. In this capacity he entered the hall with us, and took his place behind M. Vlangaly. ‖ As soon as the address was delivered we laid our letters of credence upon the table. The Emperor made a slight bow of acknowledgement, and the Prince of Kung falling upon both knees at the foot of the throne, His Majesty appeared to speak to him — I say appeared, because no sound reached my ears. We had been told, however, that the Emperor would speak in Manchu, and that the Prince would interpret. Accordingly, as soon as His Highness rose, he descended the steps, and informed us that His Majesty declared, that the letters of credence had been received. Then returning to his place, he again fell upon his knees, and the Emperor having again spoken to him in a low tone, he again descended the steps, and coming up to us informed us, that His Majesty trusted that our respective Rulers were in good health, and expressed a hope, that foreign affairs might all be satisfactorily arranged between foreign Ministers and the Tsung-li-Yamên. This closed the Audience, which may have lasted a little more than five minutes. ‖ We then all withdrew

in the usual fashion, "à reculons", and bowing, with the exception of M. de Geofroy, Minister of France, who had a reply to deliver from his Government to the letter of explanations carried to France in 1870 by the Minister Chunghow. That with which M. de Geofroy was charged may be considered to close all discussion regarding the Tientsin massacre. || I had been conceded, not without debate, that M. de Geofroy was for this second audience to be allowed the use of his own interpreter, M. Deveria. As we retired, therefore, that gentleman was introduced. The second audience was over as quickly as the first, and M. de Geofroy presently overtook us at the Shih-ying-K'ung, whence, after a short session, we were conducted to our chairs by the Ministers of the Yamên, the Grand-Secretary joining the rest at the gate. || There was a strong disposition to etablish a rule by which no audience should be granted except to a quorum of five Ministers. The Japanese Ambassador was nevertheless granted his audience alone, and the second audience accorded to M. de Geofroy will always be referred to as a precedent for the admission of any single Minister, who is charged with a written message from his Government. || Considering the antecedents of the discussion, I regard M. de Geofroy's separate audience as the most important result of the whole, always with a single exception. That exception is the concession of the audience, at all, to a number of foreigners declining not only to perform the kotow, but even to bend the knee. We must remember the long-standing pretension of the Emperor of China to this act of homage, and the tradition of isolated supremacy on which that pretension has been based. The Empire has, for the first time in its history, broken with the tradition; not, it may be, with a good grace, but still has broken with it past recal, and while I would anxiously deprecate a too sanguine estimate of its results, immediate or remote, I am as little disposed to undervalue the significance of the change that has been effected. We are not free to forget the conditions, under which but a century ago the Representatives of friendly States were admitted into the presence of the Sultan at Constantinople, and the extract which I inclose will remind us of what but three years since was the position of a foreign Minister before the Mikado of Japan. In a country like this; therefore, where forms of longer standing far than in the sister strongholds of immutability, so largely usurp the place of substance, it is not to be disputed that in its present departure from precedent an important beginning has been made. There may be — there is — very much in our late reception that falls short of the standard of our requirements, as authorized by the usages of the Western world; but we appeared face to face with the Emperor, standing, because we represented Governments the equal of his own, and in the recognition of this equality China has commenced her retreat from the maintenance of that claim to be greater and better than her neighbours, which has proved, more than any other, a cause of hindrance to her improvement at home, and as a consequence, a standing danger to the security of her relations abroad.

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Beilage 1.

The Prince of Kung to Mr. Wade.

[Translation.] The Prince of Kung makes a communication. || The Yamên having presented a Memorial to the throne, showing that the foreign Ministers resident in Peking have begged [1]) for an Audience to present letters from their Governments, had the honour to receive, upon the 20th day of the 5th moon of the 12th year of the reign Fung-Chih, the following decree: — || "The Tsung-li-Yamên having presented a Memorial to the effect that the foreign Ministers residing in Peking have implored [us so grant] an audience that they may deliver letters from their Governments, we command that the foreign Ministers residing in Peking, who have brought letters from their Governments, be accorded Audience. Respect this!" || It is the duty of the Prince to communicate a copy of the Imperial Decree, reverently made, to the Ministers of Russia, the United States, England, and France (named as usual and titles given in full).

Fung-Chih, 12th year, 5th moon, 21st day (June 15, 1873).

Beilage 2.

Revised Edition of a Memorandum of Etiquette to be observed at the Audience, forwarded by the Tsung-li-Yamên to the Foreign Ministers on the 26th June, 1873.

[Translation.] The foreign Ministers will bring with them M. Bismarck as their interpreter in common. M. de Geofroy will bring M. Deveria as his interpreter in particular. || The Ministers will alight from their chairs, or horses, at the Fu-Hua-Gate [2]), and they will there be received by the Ministers of the Yamên who will accompany them, in the first instance, to the Shih-Ying-K'ung [3]), where for a short time they will rest. If His Majesty be pleased to bestow refreshment upon them [4]), it is here they will partake of it. || Their escort [5]) will remain in a tent outside the Fu-Hua-Gate, where there will be persons to attend to them. Their retinue [6]) will also remain hereabouts. Neither escort nor retinue will enter the Fu-Hua-Gate. || As soon as His Majesty, coming from the eastern side of the building,

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[1]) Yü, to implore. The phrase is little less than "humbly beg." — T. W.

[2]) A gate in the north wall of the palace grounds, lying west of the piece of water known as the Nan Hai.

[3]) Shih-Ying-K'ung, *lit.*, the "Palace of Seasonableness". One would have expected that it was here that prayers are offered for rain, etc.; but the building is really now a temple to the Dragon King.

[4]) Refreshment, *lit.*, tea and cakes.

[5]) The foreign escort.

[6]) The native followers, grooms, etc.

reaches the inner (lit. rearmost) hall of the Tzu-Kuang-Ko, the Ministers of the Yamên will accompany the foreign Ministers and the Interpreters to a marquee [1]) to the west of the Tzu-Kuang-Ko, where they will wait a short time, until His Majesty shall have entered [2]) the-Tzu-Kuang Ko. The Ministers of the Yamên will accompany the foreign Ministers and the Interpreter, M. Bismarck, up the western flight of steps into the Tzu-Kuang-Ko by the space west [it is assumed, of the centre space]. [3]) || The speech (or speeches) of the foreign Ministers ended, they will each one spread his Letter of Credence [4]) upon the Yellow Table. || His Majesty the Emperor, making some special sign of affability (probably a bow), will say (lit. answer), that the Letters of Credence have now been received, and make gracious [5]) remarks and put kindly questions. || These will be interpreted with solemn reverence by the Prince of Kung. || [Foreign Ministers] when they come into the door [of the hall], when they are speaking, or stating their names, as also when questions are addressed to them, and when they make answer, also when they retire, will, in token of extraordinary respect, make reverences, as it was originally agreed (or proposed) they should. || The forms will be settled by rehearsal before the Audience. When the ceremony is ended, the other four foreign Ministers and the interpreter, M. Bismarck, will retire by the western flight of steps. The Ministers of the Yamên will accompany them to Shih-ying-K'ung, where they will wait a short time, M. Deveria being meanwhile brought in by Ministers of the Yamên into the Tzu-Kuang-Ko. || M. de Geofroy will speak, and will spread upon the Yellow Table the answer [6]) to the letter of the Chinese Government. || His Majesty will, as before, acknowledge the receipt [of this letter]. || The Audience (lit. business) thus concluded, M. de Geofroy and M. Deveria, the interpreter, will retire, the Ministers of the Yamên accompanying them to the Shih-Ying-K'ung. Thence, the whole party being reassembled, they will conduct the foreign Ministers and their interpreters out of the Fu-Hua-Gate. || The arrangements set forth above are made because the Emperor having to receive Letters of Credence, a Decree has been received from His Majesty according an Audience. Hence the liberality of the ceremonial [7]).

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[1]) A larger tent than that outside the gate, which will be simply such a tent as soldiers use.

[2]) That part of the building in which the Throne will be placed.

[3]) The front of the hall will be in either three or five divisions. The division indicated is that west, or left of the central division.

[4]) The Letter of Credence, "kuo shu", Government letter, is raised in the text, as it should be: indeed, higher; the letter of the Chinese Government referred to in a later note being on the same level.

[5]) "Gracious", *lit.*, gentle, bland, mild; the manner of a superior, who mingles kindness with show of dignity. The word "kindly" is, rather soothing, consoling.

[6]) The letter carried by Chung-ta-jêu to France in 1870.

[7]) This sentence is intended to imply that without a Letter of Credence, or a letter from a Sovereign, no audience will be granted.

Nr. 5201. Grossbritannien. 7. Juli 1873.

Beilage 3.

Address to the Emperor of China, delivered by M. Vlangaly, Minister of Russia, as Doyen, June 1873.

Sire, — Les Représentants de la Russie, Vlangaly; des Etats-Unis d'Amérique, Low; de la Grande-Bretagne, Wade; de la France, Geofroy; et des Pays-Bas, Ferguson, ont l'honneur d'offrir au nom de leurs Gouvernements à votre Majesté Impériale leurs félicitations à l'occasion de sa majorité et font des voeux pour la durée de son règne et la prospérité de son peuple. ‖ Ils espèrent voir dans le règne de votre Majesté la continuation du règne de son illustre aïeul, l'Empereur Kang-hi, qui, en élevant la Chine au sommet de sa gloire et de sa puissance, y donna accès aux sciences et aux arts de l'Occident. ‖ La Chine, Sire, retrouvera sous le Gouvernement de votre Majesté ces heureux jours, et les Puissances étrangères, qui ont des Traités conclus avec votre Majesté Impériale, verront avec plaisir le développement des relations et le raffermissement du bon accord qui existent avec votre vaste Empire. ‖ Nous avons l'honneur, Sire, de déposer les lettres qui nous accréditent en qualité d'Envoyés Extraordinaires et de Ministres Plénipotentiaires auprès de votre Majesté Impériale.

Differenz zwischen England und der Türkei wegen der Araberstämme in der Nähe von Aden.

Nr. 5202.

GROSSBRITANNIEN. — Min. d. Ausw. (Earl Granville) an den königl. Botschafter in Konstantinopel (Sir H. Elliot). — Auftrag, die Einstellung von Maassregeln gegen die Araberhäuptlinge zu fordern.

(Telegraphic.) Foreign Office, January 11, 1873, 12. 50 P. M.

Nr. 5202. Grossbritannien. 11. Jan. 1873.

Sultan of Lahej expresses to Resident at Aden great fear of an attack being made against him by the Turks in that quarter. Such an act would be regarded in a serious light by Her Majesty's Government, as likely to endanger British territory of Aden. Inquire if the movement is sanctioned by the Turkish Government. In any case you will request that immediate orders be sent to the Turkish authorities to put a stop to hostile operations against

any of the Arab Chiefs, calculated to disturb our position at Aden, and which would certainly give rise to a bad impression in England as well as in India.

Nr. 5202. Grossbritannien. 11. Jan. 1873.

Nr. 5203.

GROSSBRITANNIEN. — Min. d. Ausw. an den königl. Botschafter in Konstantinopel. — Weitere Instruction.

Foreign Office, January 23, 1873.

Nr. 5203. Grossbritannien. 23. Jan. 1873.

Sir, — I have received your telegram of the 12th instant, reporting that no operations have been or will be commenced against the Sultan of Lahej without orders from the Porte, which will do nothing without communicating with Her Majesty's Government. || I take advantage of the present opportunity to send you a copy of a despatch, dated October 26, from the Resident at Aden to the Bombay Government, which was communicated to me by the Secretary of State for India on the 26th November. || I await the communication which you lead me to expect may be made by the Porte, before going into any details on this matter; but in the meanwhile you will make it clear to the Porte, that as the safety, no less than the comfort, of the British position at Aden would be seriously impaired by any interference on the part of the Turkish authorities in that quarter with Rulers friendly to Great Britain, Her Majesty's Government would view seriously any proceedings calculated to disturb the country in the neighbourhood of that place. || I am, &c.

Granville.

Beilage.

Brigadier-General Schneider to Mr. Gonne.

(Extract.) Aden, October 26, 1872.

I have the honour to inform Government, that the Sultan of Lahej paid me a visit on the 24th instant, and presented a letter received by him through an emissary from Mushir-Ahmed-Mookhtar, Pasha of Yemen, translation of which is annexed. In this communication the Sultan is invited to give his allegiance to the Sublime-Porte and to wait upon the Pasha. || The Sultan having presented the letter above adverted to, I felt no hesitation as to the nature of the advice that the Resident was bound to give. I accordingly suggested to His Highness, that he should reply to the Pasha in a friendly and courteous strain and state that he is the ally and stipendiary of the

Nr. 5203. Gross-britannien. 23. Jan. 1873.

British Government; that Treaty obligations exist between him and that Government; that a copy of the Mushir's communication would be forwarded through the Resident to Government, and that he, the Sultan, did not desire to act without its wishes being known to him. || I need scarcely refer to the many Treaties that exist between Government and the independent chieftains in the vicinity of Aden, and to the feeling with which they will regard us, if they are coerced by the Turks against their will, while we, as they would suppose, looked on with indifference or with no power to prevent such a proceeding. It is obvious, that the Pasha of Yemen has made his overtures to the Sultan of Lahej as the recognized principal and most influential chief in the lowlands, feeling confident that, if he gives in his adhesion to the Sublime-Porte, the other chiefs would follow in his footsteps as a matter of course. I have ascertained, that the Howshabee Sheikh replied recently to an emissary that he would wait and see what course the Sultan adopted before replying to the overtures made to him. || The compulsory transfer by the Sultan of Lahej and other chiefs of their adherence to another Power would, of necessity, alter our intimate relations with them. At present the British Government is respected and feared by these chiefs. They are all more or less subsidized by Government and look to it for advice and assistance through the Resident, and they consult his wishes and generally abide by his suggestions; but if they are coerced and incorporated with the Turkish possessions in Yemen, Government can no longer be regarded as the paramount authority here, and difficulties and complications will probably follow, the result of which it is now impossible to see. The Turks would control the whole land around Aden up to the Owlakee country including the ports of Shugra and Howr. When convenient the chiefs would declare, that they can only do so and so with the permission of the Turks, or that they adopted a particular line of conduct under their instructions, but supplies from the interior, absolutely necessary to our existence here, may even be interrupted, and the great trade that is carried on between the neighbouring States in the interior and Aden may, by prohibitive transit duties, be diverted to other parts in the Red Sea.

Nr. 5204.

GROSSBRITANNIEN. — Min. d. Ausw. an den königl. Botschafter in Konstantinopel. — Zurückweisung der türkischen Ansprüche.

Foreign Office, January 30, 1873.

Nr. 5204. Gross-britannien. 30. Jan. 1873.

Sir, — I have received your despatch of the 13th of January, reporting at length your conversation with Khalil-Pasha respecting the hostile operations threatened by the Turkish authorities in Arabia against the Arab Chieftains

in the immediate neighbourhood of the British territory at Aden. ‖ The Pasha's language, in so far as it contained a promise that no such operations would be undertaken without previous communication with the British Government, was satisfactory; not so his assumption of the right of the Porte to call upon those Chieftains to make a profession of obedience to the Porte, on the ground that the territory of Yemen is subject to the authority of the Porte, even though this assumption was qualified by the assurance of the most scrupulous respect being shown for the British territory. ‖ I instructed your Excellency, by my despatch of the 23rd of this month, to state to the Porte that Her Majesty's Government would view seriously any proceedings on the part of Turkish authorities to disturb the country in the neighbourhood of Aden. ‖ But, in consequence of Khalil-Pasha's language, Her Majesty's Government consider it desirable, that you should point out to the Turkish Government that the question is not that of the territory held by the British Government at Aden, in respect of which they do not require any assurance from the Porte, but that the Sultan of Lahej, and other Arab Chiefs in friendly relations with the British Government at Aden, should not be molested or interfered with by Turkish authorities, on the alleged ground that the Province of Yemen belongs to the Porte, and that those Chiefs, as inhabiting part of that province, are subjects of the Porte. ‖ Whatever rights of sovereignty the Porte in times long gone by might have had in Yemen, it is notorious that since the year 1633 Yemen has been under the rule of Arab Chiefs, independent of the Porte. Her Majesty's Government have, however, no desire to discuss that question generally; but they cannot, as matters stand, but intimate through you to the Porte, as was intimated by them to Mehemet Ali in the year 1839, that Her Majesty's Government wish that the independence of the native Chiefs in the vicinity of Aden should be respected; and that any attempt to subvert their authority would not be viewed with indifference by Her Majesty's Government. ‖ I am, &c.

Nr. 5204. Grossbritannien. 30. Jan. 1873.

Granville.

Nr. 5205.

GROSSBRITANNIEN. — Botschafter in Konstantinopel an den königl. Min. d. Ausw. — Bericht über die Antwort der Pforte.

Constantinople, February 3, 1873.

My Lord, — The Grand-Vizier called on me two days ago, when I took the opportunity of again speaking to him about the threatened attack on the Sultan or chieftain of Lahej, saying that I had been glad to receive from

Nr. 5205. Grossbritannien. 3. Febr. 1873.

Nr. 5205. Gross-britannien. 3. Febr. 1873.

Khalil-Pasha the assurance, that no operations should be commenced against him until an understanding had been come to with Her Majesty's Government. He said the Minister for Foreign Affairs was fully warranted in making the declaration; and, in order to render it more solemn, a decision to that effect had been come to by the Council, and was submitted to the Sultan's approval. ‖ This afternoon I reverted to the subject in conversation with Khalil-Pasha, stating the satisfaction with which I heard from the Grand-Vizier the repetition of the assurances he had himself given me. ‖ Khalil-Pasha replied, that the Council of Ministers had determined to act as he had said; but, at the same time, they had decided that he was to attempt to obtain the acquiescence of Her Majesty's Government to the Chief of Lahej making a purely nominal submission to the Sultan without tribute or service being required from him. ‖ I said I hoped he would not make any such proposal, for I could assure him that there was no probability of its being entertained. ‖ I expressed myself in the sense prescribed by your Lordship's despatch of the 23rd ultimo, and was able to show his Excellency that the ground now taken up was not new, and that, in 1839, Mehemet Ali, Pasha of Egypt, who was carrying out the subjugation of the Yemen, had stated that the mountains to the north of the plain of Lahej formed the boundary of Yemen, and that Her Majesty's Government had, at the same time, intimated that they would not see with indifference the subjugation of the independent tribes beyond the Straits of Bab-el-Mandeb. ‖ It is evident to me, that the Porte is most desirous of avoiding all action calculated to give umbrage to Her Majesty's Government, but is embarrassed to find a satisfactory mode of retreating from the position which has been made by the threatening proceedings of the Pasha of Sana. ‖ The Sultan of Lahej having been called upon to make his submission, a demonstration of force, to coerce him in the event of a refusal, had been apparently made on his frontier; and it is feared, that an abandonment of the demand might be regarded as a recognition of weakness injurious to the Sultan's authority in the districts now acknowledging it. ‖ I have, etc.

Henry Elliot.

Nr. 5206.

GROSSBRITANNIEN. — Min. d. Ausw. an den königl. Botschafter in Konstantinopel. — Befriedigung über die Antwort der Pforte.

Foreign Office, March 17, 1873.

Nr. 5206. Gross-britannien. 17. März 1873.

Sir, — Her Majesty's Government learned with much satisfaction from your despatch of the 14th of February, that the Governor-General of the Yemen had been instructed to abstain from interfering with, or in any way

molesting, the Ruler of Lahej. Her Majesty's Government could certainly not have assented to the expedient proposed by the Porte, and reported in your despatch of the 3rd of February, that the Chief of Lahej should make a purely nominal submission to the Sultan, without tribute or service being required from him, and your Excellency did quite right in warning the Grand-Vizier, that there was no probability of its being entertained. || It is only necessary for me, as the matter now stands, to request your Excellency to continue to bear the question in mind, and, in any future discussions with the Turkish Ministers, firmly to maintain the position already taken up by Her Majesty's Government respecting it. || I am, etc.

Nr. 5206. Grossbritannien. 17. März 1873.

Granville.

Nr. 5207.

GROSSBRITANNIEN. — Min. d. Ausw. an den königl. Botschafter in Konstantinopel. — Neue Beschwerden über türkische Eingriffe.

Foreign Office, May 15, 1873.

Nr. 5207. Grossbritannien. 15. Mai 1873.

Sir, — The communications which you have made to the Porte under instructions from me during the present year, respecting the proceedings of the Turkish authorities in Arabia, must have satisfied the Porte that Her Majesty's Government were not prepared to acquiesce in any proceedings its officers might take in that quarter, indicating a disposition to extend its authority over the native Arab tribes, and interfere with such of them as were in friendship with the British Government, and so generally disquiet the territories in the neighbourhood of Aden. || I especially directed you, in my despatch of the 30th of January, to point out that for above 200 years Yemen has been under the rule of independent Arab Chiefs, and I said that although under those circumstances Her Majesty's Government had no desire to discuss this point generally, it was their wish that the independence of those Chiefs in the vicinity of Aden should be respected, and that they would not view with indifference any attempt to subvert the authority of those Chiefs. || The assurances which you received in general terms from the Porte were on the whole satisfactory at the time, but it is desirable that I should repeat, as regards this province generally, the instructions which, in my despatch of the 11th of March, I gave you as specifically applying to the Sultan of Lahej, firmly to maintain the position taken by Her Majesty's Government as regards Yemen. || I am the more inclined to do so at present by the account contained in the telegram from the Governor-General of India, dated May 10, of which I inclose a copy, and by which it appears, that Turkish authorities are

Nr. 5207. Gross-britannien. 15. Mai 1873.

still interfering with native Chiefs in the neighbourhood of Aden, and are locating a body of troops among the Howshebee tribe living in the immediate vicinity of that place, which draws from among them important supplies. To this specific act of aggression your Excellency will at once call the attention of the Porte. || As regards the more general question of the Yemen, I have to inclose to your Excellency a copy of a despatch from the Governor-General of India, supplying the information which I requested the Duke of Argyll to obtain from the Indian Government as to the right of the British Government to take directly under their protection the native Arab Chiefs, with whom they have Treaty engagements, and the extent to which such right might be claimed. The answers to these questions are contained in the inclosed despatch, and in your conversation with the Porte your Excellency will adopt those answers as the ground of your insistence with the Turkish Government against interference with the Arab tribes enumerated by the Governor-General. || I inclose copy of a map showing the locality of the several tribes referred to. || I am, etc.

Granville.

Beilage 1.

The Viceroy to the Duke of Argyll.

(Telegraphic.) May 10, 1873.

Following from Aden Resident, dated 5th: — || "Letter received by Turkish Agent at Aden from Civil-Governor at Taizz, saying he has received orders from Mushir at Sana, to appoint Howshebee Sultan, Chief of Howshebee district on a monthly salary of 50 dollars, also Mushir has given orders that detachment of Turkish troops be sent to Howshebee Sultan to protect his country." || If true, these proceedings are opposed to assurances given by Khalil-Pasha, as reported in Sir Henry Elliot's despatch of 13th of January, and in face of remonstrances made in Lord Granville's letter of 30th idem. If troops have been sent I trust their recall will be peremptorily demanded and satisfactory explanation required of violation of assurances given.

Beilage 2.

The Governor-General of India in Council to the Duke of Argyll.

(Extract.) Fort William, April 11, 1873.

The question of the right of the British Government to take these Chiefs under our protection may be viewed in two aspects, viz.: — 1st, our right as

Nr. 5207. Gross-britannien. 15. Mai 1873.

regards the alleged claims of the Turkish Government; and, 2ndly, our right as regards the Chiefs themselves. || With reference to the first aspect of the question, we would state the following as being, in our opinion, the grounds on which the rights of the British Government to take these Chiefs under protection are based, viz.:—1st. That the Chiefs are, and for the last century have been, independent of Turkish influence and control. || 2nd. That the British Government has, as a matter of fact, already entered into Treaty relations with these Chiefs, without reference to Turkey or any other foreign Power, and may conclude fresh engagements with them if deemed expedient. || 3rd. That the recent proceedings of the Turkish officials have been so prejudicial to British interests at Aden, as to afford good ground for such arrangements being concluded with the Chiefs as may be deemed best fitted to prevent a repetition of the evils. To such arrangements for the peace and security of our settlement no objection can reasonably be offered. || 4th. That the Chief of the largest and most important tribe (the Abdalees) has distinctly claimed British assistance, and asked for protection. || 5th. That while the Chiefs have been independent of Turkey, they have not been so of the British Government, which, for some years, has paid them stipends, and has frequently interfered to settle their inter-tribal quarrels. They have come to look on the Resident at Aden as their friend and adviser in all their difficulties. The question is, therefore, somewhat a domestic one. || Turning next to the question of the rights of the British Government as against the Chiefs themselves, we would observe that, while we consider ourselves free to impose any measures upon the Chiefs which we may deem essential for the safety of our Aden possessions, it is far from our intention to have recourse to any forcible measures. We propose to secure the objects we have in view with the consent of the Chiefs and by negotiation with them. || We are of opinion, that the protection of the British Government should extend to all the tribes marginally noted,[1]) with whom Treaties have been, at various times, concluded. These Treaties will be found in the seventh volume of the collection of "Treaties, Engagements, and Sunnuds."

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[1]) 1. The Abdalee (Lahej); 2. Foodhlee; 3. The Akrabee; 4. The Howshebee; 5. The Alowee; 6. The Ameer; 7. The Soobahee; 8. The Jaffaee; 9. The Owlakee.

Nr. 5208.

GROSSBRITANNIEN. — Botschafter in Konstantinopel an den königl. Min. d. Ausw. — Die Pforte verspricht Abhülfe.

Therapia, June 6, 1873.

Nr. 5208. Gross-britannien. 6. Juni 1873.

My Lord, — Referring to my despatch of the 1st instant, I have the honour to state that, before the receipt of your Lordship's telegram of yesterday's date, I had received from the Porte distinct assurances that Ahmed-Eyoub-Pasha, the new Governor-General of the Yemen, who left Constantinople yesterday on his way to Hodeida, had been instructed at once to withdraw the troops quartered on the Howshebee Sultan, and to be careful to abstain from interfering in any way with the tribes in friendly relations with Her Majesty's Government enumerated in the letter of the Governor-General of India, inclosed in your Lordship's despatch of the 15th ultimo, unless with the previous authorization of the Porte. || There is no telegraphic communication between Constantinople and the Yemen by which these instructions could be sent. || I have, etc.

Henry Elliot.

Nr. 5209.

TÜRKEI. — Min. d. Ausw. (Raschid Pascha) an den englischen Botschafter in Konstantinopel. — Erläuterungen des Verhaltens der Pforte in Bezug auf die arabischen Stämme.

Sublime-Porte, le 15 Juillet, 1873.

Nr. 5209. Türkei. 15. Juli 1873.

M. l'Ambassadeur, — Le Gouvernement de Sa Majesté Britannique semble se préoccuper outre mesure de la politique du Gouvernement Impérial, dans le Yemen en général, et en particulier de l'attitude que nos troupes tendent à prendre dans ces localités. || Permettez-moi de faire observer à votre Excellence que cette préoccupation, je pourrai dire cette inquiétude, n'est nullement fondée, et que l'incident isolé de Hoschpy Sultan ne suffit pas, à lui seul, pour faire supposer au Gouvernement Impérial des intentions bien éloignées de sa politique traditionelle. || Ce n'est pas ici le moment de chercher à constater ou à invalider l'indépendance séculaire que le Gouvernement Britannique invoque pour les neuf tribus de Lohidge, Faudaly, &c., et pour le pays d'Adramat, pas plus qu'il ne s'agit de contester la validité des Traités que le Gouvernement Britannique a conclus avec les tribus susdites; ce que je tiens à faire connaître, sans toutefois préjuger de l'avenir, c'est que la politique du

Gouvernement Impérial n'a point varié dans le Yemen et que nos troupes ne sont pas animées de sentiments étrangers aux dispositions dont nous sommes pénétrés nous-mêmes. || L'incident, que j'appelerai volontiers l'accident, de la demeure de Hoschpy Sultan, — unique fait d'ailleurs dont le Gouvernement Britannique puisse se prévaloir, — présenté à distance et dépourvu de détails, n'est pas suffisant pour être considéré comme peignant une situation. D'ailleurs le Gouvernement Impérial à peine en a-t-il été informé que, sans hésiter sur les conséquences fâcheuses qui pourraient porter atteinte au prestige de son drapeau, il s'est empressé d'ordonner que la demeure de Hoschpy Sultan soit immédiatement évacuée. Je suis convaincu en outre que les détails que nous attendons sur cette occupation seront tels qu'ils expliqueront le fait d'une manière bien différente que le Gouvernement Britannique a pu l'interpréter. || A part ce fait je ne vois dans l'ensemble de la situation au Yemen que l'effet des rapports pleins de cordialité qui règnent entre nos autorités et les pays d'alentour. Cet échange de bons procédés et de sympathies mutuelles, puisant sa source dans le contact fréquent d'un bon voisinage, peutêtre aussi dans le sentiment d'une religion commune, est de nature à rassurer le Gouvernement Britannique plutôt que de lui porter ombrage. || Je ne puis autrement expliquer l'apparition de nos employés dans le Chakha et Maukalla, aussi bien que dans les neuf tribus alliées du Gouvernement Britannique. Quant aux navires sous pavillon Ottoman qui fréquenteraient Adramat, quelle conséquence peut-on retirer si ce n'est que le commerce est florissant, que les besoins des populations augmentent tous les jours par le fait de la civilisation — ce qui dénote la marche ascendante du progrès et du commerce, choses que l'Angleterre a toujours envisagées avec satisfaction? Rapports de bon voisinage et simplement amicaux, développement inévitable du progrès et de la civilisation, respect absolu des us et coutumes de nos voisins, telles sont les bases de notre politique et de notre programme dans le Yemen. Nous voyons avec plaisir que les tribus aux environs d'Aden entretiennent des relations cordiales avec les autorités Anglaises. Nous constatons avec satisfaction que ces peuplades trouvent un débouché avantageux et lucratif de leurs denrées sur les marchés d'Aden, et notre ferme intention n'est point certes de troubler un état de choses aussi satisfaisant. J'aime à penser que ces explications franches feront disparaître les préoccupations du Gouvernement Britannique et dissiperont jusqu'à l'ombre du doute que le fait regrettable et encore inexpliqué de Hoschpy Sultan aurait pu faire naître sur nos intentions. || Veuillez, etc.

Rashid.

Nr. 5210.

GROSSBRITANNIEN. — Min. d. Ausw. an den königl. Botschafter in Konstantinopel. — Mittheilung, dass das Versprechen noch nicht erfüllt ist.

Foreign Office, October 17, 1873.

Nr. 5210. Gross-britannien. 17. Oct. 1873.

Sir, — With reference to your Excellency's despatch of the 8th ultimo, I transmit to you copies of two further letters from the India Office with despatches from the Political Agent at Aden, stating that no notice is taken by the new Governor-General in Yemen of the Porte's instructions to withdraw the Turkish troops from the countries now occupied by the Arab tribes in the vicinity of Aden; and I have to instruct your Excellency to communicate to Raschid-Pasha the information contained in General Schneider's despatches, and to request that further stringent orders may be issued. || I am, etc.

Granville.

Beilage 1.

Brigadier-General Schneider to Mr. Gonne.

(Extract.) Aden, August 21, 1873.

I have the honour to forward translation of a letter addressed to the Sultan of Lahej by Ahmed-Ayoob-Pasha, the recently appointed Governor-General of Yemen, the original of which I propose to send to the Secretary of State for India to show that the Pasha has conveyed a covert threat to the Sultan notwithstanding the assurances that have been given by the Porte to the British Government. || I have thought it advisable to address the following communication to Ahmed-Ayoob-Pasha, so that he may know the Resident is acquainted with the orders and instructions he has received from the Ottoman Government: — || "We have to bring to your Excellency's notice, that the detachment of Turkish regular and irregular troops sent by your predecessor, Ahmed-Mookhtar-Pasha, to Shuka, in the Howshebee country, have not yet been withdrawn. || We received an intimation a short time since from the Great Government that your Excellency had been sent from Constantinople with instructions from the Sublime-Porte to remove the above-mentioned troops from the Howshebee country. || We trust your Excellency will promptly act in conformity with the orders you have received in respect of the matter we now bring to your notice, and so cause affairs to revert to their normal condition by abstention from interference with chiefs and tribes

around Aden with whom the British Government has Treaties, or who are its stipendiaries. ‖ We learn with regret that the Ameer Ali-bin-Mookbil, a stipendiary of the British Government, is still a prisoner at large."

Nr. 5210. Gross-britannien. 17. Oct. 1873.

Beilage 2.

Ahmed-Ayoob-Pasha to Sheikh Fadhl-bin-Mohsin.

(Translation.)

(After compliments.) Sana, 2 Samad-al-Akhir and 15 Jamo-az (July 27, 1873).

The answer that you have sent to our predecessor his Excellency Ahmed-Mookhtar-Pasha, which is dated 5th Jamad (1st July) reached us, and its meaning was to the effect that you were obliged for the explanation afforded concerning the promise you saw in a letter that was sent by the above-mentioned (Ahmed-Mookhtar-Pasha) to General Schneider, the Resident at Aden. Well, finally the above-mentioned explanation was not to any special purport. The object of that declaration was merely to show that action will be taken according to the orders that may be obtained from the Sublime-Porte. Then, your mind has not grasped the end that naturally will result from the effect of the said declaration and by reason of your going in the path of negligence, and it will be proved that your negligence has overcome your discretion. Now, it must be borne in mind and considered that every Government will not relinquish the rights that revert to its sovereignty and that it guards and protects, and who has already tendered his submission and entered within the pale of subjection; likewise, he who has the ability to do so: nor does it delay to make an example of and punish those who walk in the path of evil and sedition. ‖ May you remain in a good state.

Nr. 5211.

GROSSBRITANNIEN. — Politischer Agent in Aden (Brigadier-General Schneider) an den Min. für Indien (Duke of Argyll). — Berichte über die Vorgänge in Lahej.

a.

(Telegraphic.) Aden, October 20, 1873.

Nr. 5211. Gross-britannien. 20—27. Oct. 1873.

Some followers of Abdoolla, brother of Sultan, having made an attack on Bazaar at Lahej, were beaten off by Sultan, with two killed, and ten wounded, on both sides. Sheikhs mediated between Sultan and his brother

Nr. 5211. Grossbritannien. 20—27. Oct. 1873.

Abdoolla, who gives his son, and the son of Abdoolla-Kureem, as hostages for good conduct. A detachment of about twenty-five Turkish soldiers from Shuka has entered and occupied the fortified house of Abdoolla in Lahej territory; and commanding officer asks Sultan to give hostages, as Abdoolla and the nephews have made their submission, and are Turkish subjects. Sultan declines. I have written to commanding officer, requiring him to vacate Lahej territory immediately, otherwise he will be answerable for consequences. Looking to conduct of Turkish officers, and disregard of orders from Ottoman Porte, I do not expect my letter will have effect. Commanding officer at Taizz meditates occupation of fort at Zaida, and has asked Sultan's permission to go there, which has been refused. I have recommended Sultan not to attack Turkish detachment in Abdoolla's house, as it would complicate matters; and commanding officer declares to Sultan he has had no hostile intention. If detachment is not withdrawn from Lahej, the time seems to have arrived to send troops there. I will dispatch an officer to Lahej, to support Sultan.

b.

(Telegraphic.) Aden, October 22, 1873.

Turkish officer declines to remove Turkish detachment from Lahej territory, and states that he is there by order of Commander and Acting-Governor of Taizz to protect Abdoolla who is a subject of the Porte. In this emergency can Ottoman Porte be requested to send an order by telegraph to Governor of Taizz to care of Resident to withdraw troops from Howshebee country and Lahej.

c.

(Extract.) Aden, October 22, 1873.

After writing my Report of the 20th October, the Sultan of Lahej paid me a hasty visit to represent, that a detachment of Turkish troops has entered his brother Abdoolla's house in his territory, and that the Commanding Officer had sent him a message asking him to release his nephews Mohsin and Fadhil, who had been given by Abdoolla as hostages for his good conduct, and that of the other brother Abdool-Kureem. || The Sultan explained more fully what has taken place in Lahej, and informed me that, after the skirmish in the bazaar, commenced by his brother Abdoolla's followers, he had invested his house with the intention of capturing him and other male members of the family, who persisted in acting contrary to his wishes and orders, and that it was only at the mediation of his Sheikhs and Seyds that he consented to suspend operations against them. || The brother Abdoolla after having given hostages, seems to have written for assistance to the Commanding Officer at Shuka, who thereupon entered Lahej and billeted twenty-five

Turkish soldiers in his house, and sent a message to the Sultan, that the brothers Abdoolla and Abdool-Kureem and the nephews Mohsin and Fadhil had made their submission and were Turkish subjects. The Commanding Officer further said he had come for no hostile purpose; that he was well aware, that Lahej was under British protection, and that the Ottoman Government had consented to leave him undisturbed; that the English and the Turks were brethren, and were not likely to come to blows in his cause. The Commanding Officer also declared that, if the hostages were not given up, he would write to Taizz for orders, when more troops would be billetted in Abdoolla's house. || The Sultan then showed me a letter he had received from the Commanding Officer of the troops at Taizz, in which he said the Ramazan was approaching; that the Turkish detachment at Shuka was inconveniently crowded, and asking permission to billet some of them at Zaida where the Sultan has a small fort and garrison. I advised the Sultan to refuse this permission, and to mention in his reply, that he was aware the Ottoman Government had ordered the withdrawal of troops from the Howshebee district. || I also advised the Sultan to refuse to give the hostages back, and to avoid making any attack against the Turkish detachment. This last caution was unnecessary, for I saw at once he had no wish to come into collision with it, and relied on the assistance of Government to free him from his present position. || I addressed both the Mootasarif at Taizz and the Commanding Officer of the Turkish detachment in Abdoolla's house regarding their proceedings, which I again informed them were entirely opposed to the orders and instructions issued by the Ottoman Government. || Captain Hunter, my first assistant, returned from the African coast on the morning of the 21st, and I sent him the same day to Lahej to reassure the Sultan and to support and advise him. If the detachment was not withdrawn before his arrival, he will explain to the Commanding Officer the absurdity of the position taken up by Turkish officials, viz., that, if persons residing in Lahej territory, whoever they may be, make profession of obedience to the Ottoman Government and commit crimes and misdemeanors in the territory, and are punished by the ruling Power, that the Ottoman Government is justified in sending its troops to rescue and protect the offenders.

d.

(Telegraphic.) Aden, October 27, 1873.

A field force, composed of artillery, infantry, British and native, and sappers, 328 officers and men all told, under command of Colonel Mackenzie, marched on Lahej this morning, to support Sultan. Fifty sabres of Aden troop were at Lahej on 24th, with Captains Hunter and Gabb. Resident leaves this afternoon. || Government of India informed.

Nr. 5212.

GROSSBRITANNIEN. — Botschafter in Konstantinopel an den königl. Min. d. Ausw. — Neue Zusagen der Pforte.

(Extract.) Therapia, November 7, 1873.

Nr. 5212. Gross-britannien. 7. Nov. 1873.

With reference to my despatch of the 30th ultimo, I have the honour to inform your Lordship, that when I saw Raschid-Pasha on Monday I spoke very seriously to him of the line which had been adopted by the Turkish authorities in the Yemen with regard to the Arab tribes with whom Her Majesty's Government had Treaties. || Their proceedings had been so much in contradiction with the formal assurances given by himself on repeated occasions, that it would be impossible for me even to attempt to give your Lordship a satisfactory explanation of them. || The instructions with which we had been made acquainted, as those which the new Governor-General had received for his guidance, had been treated as so much waste paper. Her Majesty's Government had given a ready confidence to the assurances of the Porte; but finding it misplaced, they might now have to consider what course they may be compelled to follow with regard to the independent tribes, in whose incorporation into the Empire they are not disposed to acquiesce. || Raschid-Pasha betrayed much embarrassment in answering, and seemed conscious that the complaint of Her Majesty's Government was well founded. || He asked, if I had spoken to the Grand-Vizier on the subject, and I said that I had just left his Highness, but that, knowing him to be pressed for time to make certain financial arrangements which brooked no delay, I had merely alluded to it, and observed that I was about to have a serious conversation with the Minister for Foreign Affairs upon the matter. || Raschid-Pasha said, that it was determined to send Kiamil-Pasha, the Governor of Jerusalem, to the Yemen in the character of a Commissioner, to keep the Porte informed of the political position of the province, and promised that orders to the Governor-General not to molest the tribes in question should be forwarded. || I said I was glad to receive this promise from him, although its value was considerably diminished by the fact of its having already been made, more than once, without being followed by any result.

Nr. 5213.

GROSSBRITANNIEN. — Botschafter in Konstantinopel an den königl. Min. d. Ausw. — Weiterer Bericht über die Erklärungen der Pforte.

Therapia, November 21, 1873.

Nr. 5213. Grossbritannien. 21. Nov. 1873.

My Lord, — I communicated yesterday to Raschid-Pasha the substance of your Lordship's telegram of the 19th, in reference to the continued occupation of the Howshebee country by the Ottoman troops; and his Excellency replied, that he hoped that we might consider the incident as completely terminated by the instructions that had been sent, and which will insure the evacuation of the territory in question, as Howshebee was specifically mentioned in them. || I said that, to avoid future misunderstanding, I should wish to be distinctly informed whether the present instructions were to be understood as applying to the country of the whole of the tribes having Treaties with us, of which I had furnished him with the list, and which the Porte had promised not to molest. || Raschid-Pasha replied, that such was the meaning of his instructions. || I trust, therefore, that no further difficulties may now arise; for, while I entertain no doubt of the sincerity of the assurances of the Grand-Vizier and the Minister for Foreign Affairs, they will, I believe, now have sufficient authority to insure their being observed. || I do not attempt to conceal from the Turkish Ministers the impression that must have been produced upon Her Majesty's Government by their late proceedings. || Many months ago a formal engagement had been taken by the Porte, and accepted in good faith by Her Majesty's Government, who, having protested when they found that it was not fulfilled, cannot but have expected that the Sultan's Government would at once and without hesitation redeem their promise, and express regret at the delay which had occurred. || Instead of this, unless I am entirely misinformed, the question of the expediency of maintaining or withdrawing the troops seems again to have been discussed, as though it were a matter upon which the Porte was still free to decide, and, although Her Majesty's Government will learn with pleasure, that the troops are to be withdrawn, the decision will not inspire them with the same confidence in any future assurances that they may receive from the Porte, as would have been the case, if it had been come to on the simple ground of being done in redemption of a former engagement. || I have, etc.

Henry Elliot.

Nr. 5214.

TÜRKEI. — Min. d. Ausw. an den kaiserl. Botschafter in London (Musurus Pascha). — Entschuldigung der Pforte.

(Télégraphique.) Constantinople, le 26 Novembre, 1873.

Nr. 5214. Türkei. 26. Nov. 1873.

L'envoi d'Aden d'un détachement de 500 soldats pour empêcher l'occupation de Léhadj par les troupes Impériales est une mesure qui ne saurait être attribuée qu'à un malentendu provenant de l'incident d'un Cheïkh de Léhadj qui avait eu recours aux autorités Impériales, et à la disposition de qui celles-ci ont cru à tort devoir mettre, sur sa demande, une escorte de zaptiés. Il est probable que la présence de quelques militaires sur le territoire de Léhadj ait éveillé l'attention des autorités Britanniques, et revêtu à leurs yeux le caractère d'un fait concordant avec des rapports exagérés. Or, ainsi que Sir Henry Elliot en a déjà reçu l'assurance, le Gouvernement Impérial n'a ni occupé ni même eu la pensée d'occuper ce district. Cela est si vrai que la Sublime-Porte, aussitôt informée des interprétations désagréables qui ont été la suite de l'incident ci-dessus, s'est empressée de prescrire par télégraphe et catégoriquement aux autorités compétentes et aux troupes Impériales d'éviter dans leur attitude tout ce qui pourrait donner même une apparence de réalité à ces interprétations. ‖ Veuillez entretenir Lord Granville de ce qui précède, lui donner les assurances les plus formelles sur la sincérité de nos intentions, et lui démontrer l'inutilité d'une mesure qu'aucune nécessité ne commande.

Nr. 5215.

GROSSBRITANNIEN. — Politischer Agent in Aden an die Regierung zu Bombay. — Bericht über den Abzug der türkischen Truppen und Bestrafung des Abdullah.

Lahej, December 7, 1873.

Nr. 5215. Grossbritannien. 7. Dec. 1873.

Sir, — I have the honour to report, that the Turkish troops evacuated Lahej and the Howshebee country on the 4th and 6th December respectively, I arrived at the former place on the evening of the 5th idem, and informed Abdoollah-bin-Mohsin, that I wished to see him the following day. He was told that the Resident would guarantee his safe return to his fort. ‖ 2. Abdoollah-bin-Mohsin wrote in reply, that he would gladly visit the Resident to state his grievances and he asked to be escorted by Captain Hunter. ‖ 3. He was brought to my quarters at 12 o'clock on the 6th December by the above

Nr. 5215. Gross-britannien. 7. Dec. 1873.

officer, accompanied by his brother Abdool-Kurreem and his son Fudhil. || 4. Abdoollah then proceeded to state his grounds for complaint, which were in effect that he was the eldest brother of the family, that he had not fair division of the Lahej territory and the Government subsidy, and that he ought to exercise power as well as the Sultan. || 5. I pointed out to him that there could only be one ruler in a country and that the present Sultan had been elected to reign by the suffrages of the Sheikhs and Sayeeds of the principality, and that he, his son and brother, were subjects of the Sultan, and had committed a great crime in rebelling against his authority and seeking the intervention of the Turks, instead of applying to the Resident for redress, if he, and those with him, considered they had been wronged. || 6. Abdoollah replied to this, that he had not addressed the Resident as he had never been noticed or recognized by that functionary, and he referred, with some bitterness, to a slight he said he had received from a former Resident, who had refused his hand when he extended it for the usual friendly salutations. I reminded him, that I was not responsible for this act, and that I had sent him a warning against continuing to act in opposition to the Sultan's wishes by holding communications with the Turks, and Ali-bin-Mana the Howshebee, who was his brother's enemy. || 7. Abdoollah replied, that he had felt himself in such a strait that he accepted the assistance of any one against the Sultan, and he begged the clemency of Government for his conduct. || 8. I listened patiently to everything Abdoollah had to say, and I then told him that his making his submission to the Turks, and calling their troops to his aid to invade Lahej territory after he had given hostages for future good conduct, had caused grave complications, and had given much trouble to the British Government, and that his acts could not be passed over, and I informed him the Resident required him, with his brother Abdool-Kurreem and his son, to make their unconditional submission by 4 o'clock that afternoon, and also to make over the occupation of his fortified houses at the same hour to British troops. || 9. Abdoollah was taken by surprise at these conditions, but I stated that they could not be abated one hair, and that, if not complied with by the time named, British troops would invest and capture his forts by force of arms. He demurred for a while, protesting that he, Abdool-Kurreem, and his son, could not forsake their families, and that they would rather die under the ruins of their houses than submit to such humiliating terms. || 10. I remarked to Abdoollah that the British Government did not war with women and children, and that he might rely on their families being treated in a manner befitting their position, and that this duty would be undertaken by Fudhil-bin-Ali, a nephew of the Sultan, with the permission of the latter. || 11. After a little consultation among themselves, Abdoollah, on behalf of himself, his brother, and son, accepted unconditionally the terms offered to him, and he said he was prepared to go to Aden as a prisoner, with his son and Abdool-Kurreem, and to make over his forts at once to British troops. ||

Nr. 5215. Grossbritannien. 7. Dec. 1873.

12. I accordingly ordered a detachment of troops, British and native, to parade for the purpose, under the command of Lieutenant-Colonel Edwards, and they were marched to the forts before 3 o'clock, accompanied by my Assistant, Captain Hunter, and the brother Abdoollah, Abdool-Kurreem, and Fudhil-bin-Abdalla. The former ordered his garrison to vacate, which was done with great demonstrations of delight by the Arabs, and the troops took possession. || 13. The families left at dusk, the aged mother of Abdoollah being carried on a dhoolie, and shortly afterwards Abdoollah and his son and Abdool-Kurreem were taken to Aden by Captain Hunter with an escort of the Aden troop, where they will await the orders of Government for their disposal. || 14. I inspected the forts in the evening, and am satisfied they could only have been reduced by powerful artillery and mortars, owing to the great thickness of the walls and to their being built of white sun-burnt bricks. This morning the forts were entirely dismantled, and openings have been made in the walls, so that they are quite untenable, and I await the arrival of the Executive Engineer to further destroy a place, which has been a standing menace against the Sultan of Lahej for the last ten years, and which enabled Abdoollah and other members of the family residing there to rebel against his authority with comparative impunity. || 15. I anticipate the best results from the retribution that has overtaken Abdoollah, Abdool-Kurreem, and Fudhil-bin-Abdoollah, and the people around recognize the influence and strength of the British Government, which has, apparently without an effort, not only forced Turkish troops to withdraw, with great loss of prestige, from positions they desired to occupy, but has also been able to inflict in a few hours a terrible punishment on the Chief, who has hitherto defied the authority of the ruler of the country. || 16. Copy of this letter will be forwarded to the Secretary of State for India. || I have, etc.

J. W. Schneider.

Nr. 5216.

GROSSBRITANNIEN. — Verträge zur Abschaffung des Sclavenhandels an der Ostküste von Africa.

a.

Engagement of the Sultan of Johanna as to Protection to be afforded to Immigrants in the Island of Johanna.

Johanna, March 8, 1873.

Nr. 5216. a. Grossbritannien. 8. März 1873.

Sir, — I have the honour to inform your Excellency that, from this day, I engage to insure to all immigrants into this Island of Johanna the rights and privileges of free natives of Johanna, and I especially engage to protect any persons, who may be rescued from slavery by the vessels of Her Britannic Majesty's navy, and who may be permitted by the orders of Her Majesty's Government to reside in this island. || I have, etc.

Sultan Abdallah.

His Excellency Sir Bartle Frere, G.C.S.I., K.C.B.,
etc. etc. etc.
On Special Mission to Zanzibar and Muscat.

b.

Engagement of the Nukeeb of Maculla for the Abolition of the Slave Trade in his Dominions.

Signed at Maculla, April 7, 1873.

Nr. 5216. b. Grossbritannien. 7. April 1873.

Whereas under date 14th May, 1863, A. D. (25th Dhil-Kaada, 1279 A. H.), a solemn Agreement was entered into by me, Silah-bin-Mahomed, Nukeeb of Maculla, with Brigadier William Marcus Coghlan, covenanting to abolish and prohibit the export or import of slaves from or to any part of my territory, from or to any other place, whether in Africa or in Asia, or elsewhere. And whereas his Excellency Sir Henry Bartle Edward Frere, G.C.S.I., K.C.B., Her Britannic Majesty's Special Envoy, has now impressed on me the advantages of adhering in perpetuity to the terms of the said Agreement: therefore and accordingly, I, Silah-bin-Mahomed, Nukeeb of Maculla aforesaid, on behalf of myself, my heirs and successors, do hereby solemnly confirm and engage to be bound by the terms of the aforesaid Agreement of 14th May, 1863. || Done at Maculla, this seventh day of the month of April, in the year of our Lord one thousand eight hundred and seventy-three.

H. B. E. Frere, Special Envoy.
Silah Mahomed.

Witnesses. Lewis Pelly, Colonel, Political Resident in the Persian Gulf.
C. B. Euan Smith, Major, Private Secretary to Sir B. Frere.

c.

Treaty between Her Majesty and the Sultan of Muscat for the Abolition of the Slave Trade.

Signed at Muscat, April 14, 1873.

Nr. 5216. c. Grossbritannien. 14.April1873.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Highness the Seyyid Toorkee-bin-Said, Sultan of Muscat, being desirous to give more complete effect to the engagements entered into by the Sultan and his predecessors for the perpetual abolition of the Slave Trade, they have agreed to conclude a Treaty for this purpose, which shall be binding upon themselves, their heirs and successors; and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, having appointed as her Plenipotentiary Sir Henry Bartle Edward Frere, Knight Commander of the Most Honourable Order of the Bath, and Knight Grand Commander of the Most Exalted Order of the Star of India, he, having communicated to the Sultan of Muscat his full powers found in good and due form, and the aforesaid Sultan of Muscat, Seyyid Toorkee-bin-Said, acting on his own behalf, they have agreed upon and concluded the following Articles: —

Article I. The import of slaves from the coasts or islands of Africa or elsewhere into the Dominions of Muscat, whether destined for transport from one part of the Sultan of Muscat's Dominions to another, or for conveyance to foreign parts, shall entirely cease, and any vessels engaged in the transport or conveyance of slaves after this date shall be liable to seizure and condemnation by all such Naval and other Officers or Agents, and such Courts as may be authorised for that purpose on the part of Her Britannic Majesty; and all persons hereafter entering the Sultan's Dominions and Dependencies shall be free.

Article II. The Sultan engages, that all public markets in his Dominions for slaves shall be entirely closed.

Article III. The Sultan engages to protect, to the utmost of his power, all liberated slaves, and to punish severely any attempt to molest them or reduce them again to slavery.

Article IV. Her Britannic Majesty engages, that natives of Indian States under British protection shall, from and after a date to be hereafter fixed, be prohibited from possessing slaves, and in the meanwhile from acquiring any fresh slaves.

Article V. The present Treaty shall be ratified by Her Majesty, and the ratification shall be forwarded to Muscat as soon as possible.[1])
In witness whereof, Sir Henry Bartle Edward Frere, on behalf of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and Seyyid

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[1]) Delivered to the Sultan in September 1873.

Toorkee-bin-Said, Sultan of Muscat, on his own behalf, have signed the same and have affixed thereto their respective seals.

Nr. 5216. c. Grossbritannien. 14. April 1873.

Done at Muscat this fourteenth day of April, one thousand eight hundred and seventy-three.

(L. S.) H. B. E. Frere. (L. S.) Seyyid Toorkee-Bin-Said.

d.

Treaty between Her Majesty and the Sultan of Zanzibar for the Suppression of the Slave Trade.

Signed at Zanzibar, June 5, 1873.

In the Name of the Most High God.

Nr. 5216. d. Grossbritannien. 5. Juni 1873.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Highness the Seyyid Barghash-bin-Said, Sultan of Zanzibar, being desirous to give more complete effect to the engagements entered into by the Sultan and his predecessors for the perpetual abolition of the Slave Trade, they have appointed as their Representatives to conclude a new Treaty for this purpose, which shall be binding upon themselves, their heirs and successors, that is to say, Her Majesty the Queen of Great Britain and Ireland has appointed to that end John Kirk, the Agent of the English Government at Zanzibar; and His Highness the Seyyid Barghash, the Sultan of Zanzibar, has appointed to that end Nasir-bin-Said, and the two aforenamed, after having communicated to each other their respective full powers, have agreed upon and concluded the following Articles: —

Article I. The provisions of the existing Treaties having proved ineffectual for preventing the export of slaves from the territories of the Sultan of Zanzibar in Africa, Her Majesty the Queen and His Highness the Sultan above named agree that from this date the export of slaves from the coast of the mainland of Africa, whether destined for transport from one part of the Sultan's dominions to another or for conveyance to foreign parts, shall entirely cease. And His Highness the Sultan binds himself, to the best of his ability, to make an effectual arrangement throughout his dominions to prevent and abolish the same. And any vessel engaged in the transport or conveyance of slaves after this date shall be liable to seizure and condemnation by all such Naval or other Officers or Agents and such Courts as may be authorized for that purpose on the part of Her Majesty.

Article II. His Highness the Sultan engages, that all public markets in his dominions for the buying and selling of imported slaves shall be entirely closed.

Article III. His Highness the Sultan above named engages to protect, to the utmost of his ability, all liberated slaves, and to punish severely any attempt to molest them or to reduce them again to slavery.

Nr. 5216. d. Grossbritannien. 5. Juni 1873.

Article IV. Her Britannic Majesty engages, that natives of Indian States under British protection shall be prohibited from possessing slaves, and from acquiring any fresh slaves in the meantime, from this date.

Article V. The present Treaty shall be ratified, and the ratifications shall be exchanged, at Zanzibar, as soon as possible, but in any case in the course of the 9th of Rabia-el-Akhir [5th of June, 1873] of the months of the date hereof.*

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed their seals to this Treaty, made the 5th of June, 1873, corresponding to the 9th of the month Rabia-el-Akhir, 1290.

John Kirk, Political Agent, Zanzibar.

The mean in God's sight,
Nasir-Bin-Said-Bin-Abdallah.
With his own hand.

The humble, the poor,
Barghash-Bin-Said.
With his own hand.

e.

Engagement of the Jemadar of Shuhr for the Abolition of the Slave Trade in his Dominions.

Signed at Shuhr, November 17, 1873.

Nr. 5216. e. Grossbritannien. 17. Nov. 1873.

This 17th day of November, A. D. 1873, answering to the 26th day of Ramadhan, A. H. 1290, I, Abdoollah-bin-Omar-Ali-Kaiatee, Ruler of Shuhr, engage with the great English Government to abolish and prohibit the import and export of slaves to or from the port of Shuhr and all the dependencies thereof, from or to any other place in Africa or Asia, or elsewhere; and whereas his Excellency Sir Henry Bartle Edward Frere, G. C. S. I., K. C. B., Her Britannic Majesty's Special Envoy, has impressed upon me the advantage of adhering in perpetuity to the terms of the Agreement entered into by Ali bin Najee, Nakeeb of Shuhr, with Brigadier William Marcus Coghlan, on the 14th day of May, A. D. 1863, answering to the 25th day of Dhil-Kaada,

* The Sultan of Zanzibar's Ratification was attached to the original Treaty. That of Her Majesty was delivered to the Sultan in September 1873.

A. H. 1279, therefore I and my brothers, Awadh and Salih, on behalf of ourselves, our heirs and successors, do hereby solemnly confirm and engage to be bound by the terms of that Agreement.

Nr. 5216. e. Grossbritannien. 17. Nov. 1873.

Abdoolla-Bin-Omar-Alkaiatee, Katubh
Awuz-Bin-Omar-Alkaiatee Sultan } (in Arabic.)
Noor-Ahmed-Bahadoor.

J. W. Schneider, Brigadier-General, Political Resident at Aden.

W. F. Prideaux, Assistant Resident at Aden.

(L. S.) Northbrook.

Ratified by his Excellency the Viceroy and Governor-General of India at Calcutta, on the 11th day of February, 1874.

C. U. Aitchison, Secretary to the Government of India, Foreign Department.

Der Intransigenten-Aufstand an der spanischen Süd-Ost-Küste und das Verhalten der fremden Flotten dabei.

Nr. 5217.

GROSSBRITANNIEN. — Consul in Carthagena an den Min. d. Ausw. — Anzeige von der Uebergabe Carthagena's an die Insurgenten.

Carthagena, July 15, 1873.

Nr. 5217. Grossbritannien. 15. Juli 1873.

My Lord, — I have the honour to inform your Lordship, that this city, with its forts, park of artillery, arsenal, and squadron, chiefly iron clads, have surrendered to the Intransigentes, or extreme Republican party, who have formed a Revolutionary Junta against the existing Government, under the command of General Contreras; the Government troops retreated from the city yesterday morning, with the Governor-General, but returned in the afternoon, having declared in favour of the rebellion, with the exception of the General and some staff officers, so that Carthagena is completely in the possession of the Revolutionists. Up to the present, no blood has been shed, but it is reported that the town is to be laid siege to, and that troops are already in movement. As there is no personal or other security, I have applied to the

Nr. 5217. Gross-britannien. 15. Juli 1873.

Governor of Gibraltar for a vessel of war to protect the interests of British subjects. The better class of inhabitants (Spanish) are leaving the town in the greatest confusion, fearing the results of this extraordinary rising. I have, etc.

Edmund J. Turner.

Nr. 5218.

SPANIEN. — Vertreter in London an den engl. Min. d. Ausw. — Anzeige, dass die Insurgentenschiffe von der Regierung in Madrid für Piraten erklärt sind.

(Translation.) Spanish Legation, London, July 23, 1873.

Nr. 5218. Gross-britannien. 23. Juli 1873.

My Lord, — The Spanish Government has published, in the official Gazette of Madrid, a decree, declaring the crews of the vessels of the fleet "Vittoria", "Mendez Nunez", "Almansa", and "Fernando el Catolico", which have revolted at Carthagena, and the crew of any other vessel, which may do the same in future, and navigate without their officers, to be pirates, and authorizing foreign Powers and their naval forces to capture them as privateers in the jurisdictional waters of Spain or elsewhere, and to try the revolted crews as privateers. The Spanish Government only reserves to itself the property of the vessels and the material on board. || In communicating to your Excellency this official declaration of piracy made by my government in accordance with international usages, I beg that it may be taken into consideration, so that Her Britannic Majesty's Government, its authorities and its fleet, in virtue of the present notification, may consider the aforesaid Spanish vessels which navigate without flag and their crews as pirates, and that they may be treated as such when the opportunity occurs. || I avail, etc.

Fed. Rubio.

Nr. 5219.

GROSSBRITANNIEN. — Secretair des Ausw. Amts an den Secretair der Admiralität. — Instruction für das Verhalten der englischen Kriegsschiffe.

Foreign Office, July 24, 1873.

Nr. 5219. Gross-britannien. 24. Juli 1873.

Sir, — With reference to my letter of yesterday, respecting the Spanish ships of war denounced as pirates by a Decree of the Government of Madrid, I am directed by Earl Granville to request that you will acquaint the Lords

Commissioners of the Admiralty that Her Majesty's Government consider that, if such vessels commit any acts of piracy affecting British subjects or British interests, they should be treated as pirates, the Decree of the Spanish Government having deprived them of the protection of their flag; but if they do no such act they should not be interfered with. || I am to add, that Lord Granville presumes that there is a sufficient British naval force on the coast of Spain for the protection of British interests in the present circumstances. || I am, etc.

Nr. 5219. Grossbritannien. 24. Juli 1873.

E. Hammond.

Nr. 5220.

GROSSBRITANNIEN. — Vertreter in Madrid (Mr. Macdonell) an den königl. Min. d. Ausw. — Bericht über die Wegnahme der "Vigilante" durch Capitain Werner.

(Extract.) Madrid, Juli 27, 1873.

I have the honour to lay before your Lordship the following details relative to the seizure of the Spanish war steamer "Vigilante" by the German iron clad "Frederic Carl". || As your Lordship is aware the Spanish Government decreed, on the 21st instant that the vessels of war laying in the Port of Carthagena, and which had been seized by the insurgents of that self-styled independent canton, should be considered as pirates. This decree I communicated in a Circular despatch to Her Majesty's Consuls for the information of the Commanders of Her Majesty's war-vessels on the coast of Spain, adding that I had transmitted copy of the Decree to your Lordship, with the request that Her Majesty's Government would be pleased to forward the necessary instructions to the said officers. || On the 21st instant Her Majesty's Consul at Alicante informed me that the revolted frigate "Vittoria" had arrived the previous day in that port, for the purpose of promoting a "Pronunciamento", and also to levy a contribution; that, on the morning of the 22nd instant, on the appearance before Alicante of the German iron-clad, the "Vittoria" steamed out of the port whilst the former anchored there. The „Vittoria" left Alicante under Spanish colours; but it would appear that at a short distance from that port she hoisted the red flag, whereupon the "Frederic Carl" steamed in pursuit of the "Vittoria", both vessels steering in the direction of Carthagena. || Captain Werner, of the „Frederic Carl", then, ignorant of the Decree of the Spanish Government, limited his action to ordering the "Vittoria" to haul down the red flag. The „Vittoria" shortly afterwards entered the port of Carthagena, and the "Frederic Carl" continued cruizing off that port, when she fell in with the steamer "Vigilante", likewise flying the Republican flag.

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Having brought her to, Captain Werner found her carrying an armed mob, headed by a rebel deputy of the Cortes named Galvez, and having intimated to the said Galvez that he could not allow a vessel in the condition of the "Vigilante" to navigate with impunity, he transferred the Deputy and his motley crew to the "Frederic Carl", and sent the "Vigilante", in charge of a German officer and crew, to Gibraltar. || On these facts becoming known at Carthagena the rebels declared, that they would seize and treat the Prussian Consul as a hostage, but this gentleman had already proceeded on board a German frigate. The infuriated mob then went in search of his wife and family, but they, too, had received timely warning, and had escaped from the town. Disappointed at this failure, the insurgents threatened to set fire to the Consulate and destroy the property of foreigners, if the captain of the German vessel did not release his prisoners, and give up a sum of 40,000 duros which Señor Galvez had levied, during his cruize, on the seaport town of Torrevieja. || The serious turn which events were taking at that moment, and fearing that the mob might, perhaps, vent their fury on all foreign subjects or their properties, the German Consul persuaded Captain Werner to give way to the demand of the rebel Chief, General Contreras. Consequently, the latter, with the rest of the Cantonal Junta, repaired on board the "Frederic Carl", and there met at a conference Captain Werner, the German Consul, and the Commander of Her Majesty's ship "Pigeon", who had then entered the port of Carthagena, and had been invited by Captain Werner to act and co-operate with him in his present dilemma. || This conference resulted in the compact, copy of which I have the honour to inclose, drawn up by and signed by General Contreras and the Revolutionary Junta on the one side, and the above-named officers on the other. This compact was at once carried into execution, and the insurgents, with their Chief and the money seized, were at once given up to the Independent Cantonal Government of Murcia. || On returning to Government House, General Contreras called together the foreign Consuls and inquired of them, if they had received instructions from their Governments concerning the Decree of the Spanish Government declaring certain ships of war, with their crews, pirates. || Mr. Consul Turner, in accordance with my instructions, answered in the negative, and that such vessels that might be or should arrive in port for the protection of foreign interests should remain neutral pending instructions from Her Majesty's Government, upon which General Contreras engaged his word, that the lives and interests of foreign subjects should be protected || Inclosed herewith, I have the honour to transmit to your Lordship a copy of a circular addressed by the Insurgent Chief, General Contreras, to the foreign Consuls at Carthagena for transmission to their respective Governments. || By the reports which reach me from Her Majesty's Consuls and other reliable sources, I regret to state that disorders and disturbances, if not actual fighting, are still going on at Cadiz, Malaga, Valencia, Alicante, Seville etc.

P. S. — Since writing the above I have received a telegram from Her

Majesty's Consul at Alicante, informing me that the Government troops had invested Valencia. The Minister of War leaves Madrid this evening for the purpose of commanding the attack.

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Beilage 1.

Circular of General Contreras to the Consular Body in Carthagena.

(Translation.) Carthagena, July 23, 1873.

The Constituent Cortes having proclaimed the Federal Republic as the form of Government of the Spanish nation, the people looked for the fulfilment of that solemn pledge with all the speed that their country and their enduring efforts in the cause of Federation merited; and our beholding a month and a-half pass by without either the Cortes or the Government performing even the most insignificant act in favour of the speedy establishment of the Federal Cantons, the Spanish Provinces, wherein the liberal spirit has ever attained its highest development, created themselves into Cantons, without thereby entirely refusing to recognize the powers of the Constituent Cortes. || One of the Provinces, that of Murcia, joined to its declaration of Cantonal independence the naval forces of this port and a portion of the army, and with these tendered her aid to the spontaneous movement begun in the neighbouring Provinces, when she was surprised by the Decree of the Central Government declaring the sailors, who had joined the people pirates, and invoking the aid of foreign Powers to prevent the people from realizing the fulfilment of the solemn Constitutional enactment. || The Committees ("Juntas") of the Murcian Canton cannot believe, that the Powers friendly to Spain will intervene in a pending question between two political groups which as yet have not declared mutual hostility. They cannot believe, that the navies of enlightened nations will come to interfere in difficulties involving no great or transcendental issues for the future, when in other civil struggles, disastrous in their effects and protracted in their duration, no intervention has taken place. But our position demands a declaration of the fundamental facts of the present movement, not by the way of convincing foreign Powers, but as a refutation of the bases on which the forces of friendly nations might rely for intervention in our acts. || The attitude of the Murcian Canton, like that of the others proclaimed in Spain, is sustained and justified by sixty Representatives of the nation, holding seats in the Constituent Cortes; and there, where the sovereignty of the people is embodied in the 358 Deputies legally proclaimed, the attitude of our Cantons cannot well signify a transcendental crime when a fifth part of the Representatives of the nation justify our acts. || Seven of them are now in this Canton legalizing, by their presence, all that is done here. Five of

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them are in the neighbouring Canton of Valencia, who authorize the realization of the Constitutional resolution; and all who, both in Madrid or in the Provinces, have made declarations favourable to the immediate organization of the Cantons are ready to sustain them on all occasions. || If, therefore, a simple question of procedure separates the Cantonal Authorities from the system established by the Cortes, can this be an adequate motive to call forth a declaration of civil war against the whole Provinces animated by the memory of the energetic struggle of 1808 in the cause of our independence? || The Cantonal Committee has declared treasonable the Executive Power of Madrid, or its Decree of foreign intervention. || The Spanish Federation holds the fortified cities of Carthagena and Cadiz, and of Murcia, with the important cities of Seville, Valencia, Alicante, Jaen, Granada, and a multitude of the intervening towns, and therefore we have a right to demand that our acts be respected. || On the other hand, the Cantonal Authorities have the full assurance that foreigners resident in the territory under their jurisdiction shall not be molested in the least degree, and pledge themselves to give them assurances for the future; because not only has the present prudent movement given rise to no acts of disturbance, and still less of bloodshed, but also because it has been an unequalled example of wisdom and moderation. || To the Cantons belongs the right to ask for the fulfilment of the Constitutional Resolution; justice is on their side, because the cry raised by the people in aid of the Government that convened the Cortes, is now repeated by the Cantons; and, lastly, abundant reason is on their side when they demand respect and consideration from foreign Powers, because of the proportions of the movement, the order with which it has been realized, and the facility with which all the authorities of the Cantons continue in the full exercise of their powers. || Founding his action on these considerations, the Undersigned, Captain-General of the Federal Republic of Spain, General-in-chief of its Army and Navy, fully authorized by the first temporary authorities thereof to treat with the Representatives of foreign Powers, requests them to suspend the action they are called upon to execute by the Decree of the Government of Madrid of the 21st (? 20th) instant, and to maintain meanwhile all customary consideration towards the constituted authorities of the Cantons of the Spanish Federation. || I wish for you many years of life and prosperity for those you represent.

Juan Contreras.

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Beilage 2.

Compact between Commodore Werner, Commander of the German man-of-war "Frederic Carl", and M. Anthony Galvez Arce, Chief of the armed steamer "Vigilante".

(Translation.)

1. The Commodore Werner has been obliged to capture the before-mentioned "Vigilante", in view of the flag carried by the said vessel, which was unknown amongst military navies. || 2. M. Galvez, recognizing such rights, delivers the vessel to Commodore Werner, which gentleman grants liberty to the crew, and those on board, to go where they think convenient. || 3. M. Galvez and signers hold themselves responsible that the lives and property of all subjects, German, English, and of other nations, residents in Carthagena, or under the jurisdiction of the Junta de Salud Publica, formed in same, should be respected. The aforesaid Junta is responsible — || 4. Not to allow any men-of-war, of those anchored in the Port or Arsenal of Carthagena, to leave the port, holding same responsible for the fulfilment of such. || 5. The suspension of the said vessels being cleared, will last until the 28th instant, by which time instructions from their respective Governments may be received. || 6. Both vessels, as well as others that may arrive, shall anchor either in Carthagena, or Escombrera, at the option of their Commanders, without being molested under any pretext whatsoever by the inhabitants of the city or its vicinity.

On board of the German frigate "Frederic Carl", July 23, 1873.

By the Junta,

(Signed.) Miguel Moza.

The Deputies of Assembly,

Alfredo Sauralle.

Eduardo Carvajal.

Antonio Galvez Arce.

Werner, Capitain zur See und Chef des Geschwaders.

J. A. Trotter, Lieutenant, Commanding Her Britannic Majesty's gun boat "Pigeon".

Signed as witness the Russian Vice-Consul, acting as Consul for the German Empire,

R. Spatorno.

Nr. 5221.

GROSSBRITANNIEN. — Min. d. Ausw. an den königl. Geschäftsträger in Berlin (Mr. Adams). — Mittheilung über das Verhalten Englands gegen die Insurgentenschiffe.

Foreign Office, July 29, 1873.

Nr. 5221. Gross-britannien. 29. Juli 1873.

Sir, — I have to inform you, that the German Ambassador, acting under instructions from Prince Bismarck, asked me on the 25th instant what course Her Majesty's Government intended to pursue respecting the notification issued by the Spanish Government, pronouncing certain vessels to be pirates. I informed him, that I had simply replied to Señor Rubio's communication of this notification by officiously acknowledging its receipt; and I added, that the British naval officers commanding vessels on the coast of Spain had been told that it was the opinion of Her Majesty's Government, that, if any Spanish man-of-war which had revolted, or should revolt against the Spanish Government, should commit any acts of piracy affecting British subjects or British interests, they should be treated as pirates, as they had been deprived of the protection of the Spanish flag by a decree of the Spanish Government. I stated, at the same time, that the British officers had been warned to be extremely cautious in any measures which they might take respecting revolted vessels. || I am, etc.

Granville.

Nr. 5222.

GROSSBRITANNIEN. — Admiralität und Auswärtiges Amt. — Meldung des drohenden Bombardements von Malaga und Antwort darauf.

a.

Admiralty, July 30, 1873.

Nr. 5222. Gross-britannien. 30. Juli 1873.

Sir, — I am commanded by my Lords Commissioners of the Admiralty to request you will inform Earl Granville, that the following telegram has just been received from the Senior Naval Officers at Gibraltar, dated this day, 8.35 A. M.: — || "Despatch just arrived from Consul at Malaga; Vice-Consul Almeria reports, noon, 28th, Contreras with two frigates arrived; bombardement of town feared; Governor of Malaga subsequently received telegram from Almeria stating Contreras had disarmed volunteers at Almeria, and was about to sail for Malaga. Consul Wilkinson also reports, that German Commodore has just anchored, determined to oppose the bombardment of Malaga; great panic. I sent 'Lynx' immediately, and retain 'Pheasant' here in case you want

special orders sent about Malaga. Commander of 'Lynx' will wait on German Commodore on arrival to assist him in preventing bombardment of Malaga. Carvajal said to be with Contreras. I think presence of ships alone will stop bombardment." || 2. My Lords would wish to be informed whether Earl Granville desires any special instructions to be sent to the Senior Naval Officer at Malaga. || I am, etc.

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Robert Hall.

b.

Foreign Office, July 30, 1873.

Sir, — With reference to your letter of to-day, I am directed by Earl Granville to state to you, for the information of the Lords Commissioners, that Her Majesty's Government are of opinion that the Commander of the British naval forces in Spanish waters should be instructed, if and when his force is sufficient for the purpose, to require of the rebel ships before Malaga to refrain from bombarding the town until sufficient time has been allowed for placing British life and property in safety; to enforce this demand, if it is refused; and, if it is granted, to proceed to give effect to the measures necessary for the security of British subjects and their property. Should the case exist elsewhere in Spain the Commanders of Her Majesty's ships should be guided by a similar principle. || I am, etc.

E. Hammond.

Nr. 5223.

GROSSBRITANNIEN. — Consul in Malaga an den königl. Min. d. Ausw. — Bericht über die Wegnahme der „Vittoria" und „Almanza".

Malaga, August 1, 1873.

My Lord. — I have the honour to inclose herewith a copy of a despatch, dated yesterday, which I received this morning from Mr. Vice-Consul Barron, relating to the bombardment of Almeria by the insurgent frigates „Vittoria", and "Almansa", under the command of General Contreras. These ships, after leaving Almeria, proceeded to Motril, where they arrived yesterday, and, under threat of a bombardment, they exacted and obtained a sum of 16,000 dollars. The ships then separated, the "Vittoria" steering south, whilst the „Almansa" took a westerly direction, the latter evidently bound for this port. Fortunately for the town of Malaga the "Frederic Carl", a German iron-clad, under the command of Commodore Werner, and Her Majesty's ship "Swiftsure", Captain Ward, were lying at anchor off this port, and at daybreak this morning they got under weigh and proceeded in quest of the Spanish ships. At

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a distance of a few miles they fell in with the frigate "Almansa", which vessel they seized without resistance; and an hour or so later they came up with the iron-clad "Vittoria", which likewise surrendered to the German and British frigates, in whose custody the insurgent vessels are now being reconveyed to Carthagena, under the obligation not to proceed to sea again in the service of the rebels; and to guarantee the security of the German Consul at Carthagena, General Contreras is detained on board of the "Frederic Carl" as a hostage. || The inhabitants of Malaga congratulate themselves upon having escaped a dreadful disaster, for it is now evident that the object of the insurgents was to attack the town by sea with their ships, and by land by means of their confederates, who, although not numerous, are sufficient to create a powerful diversion in their favour on the part of the lately vanquished followers of M. Carvajal, and the plunder and destruction of property and the loss of life would have been fearful to contemplate. || I have, etc.

Richd. Wilkinson.

Nr. 5224.

GROSSBRITANNIEN. — Vice-Admiral Sir H. Yelverton an den Secretair der Admiralität. — Bericht über die Operationen des "Friedrich Karl" und "Swiftsure".

"Lord Warden", at Gibraltar, August 2, 1873.

Nr. 5224. Gross-britannien. 2. Aug. 1873.

Sir, — I have the honour to acquaint you, for the information of the Lords Commissioners of the Admiralty, that, on my passage from Malta to Malaga during the evening of yesterday, the 1st instant, I fell in with the "Swiftsure", in company with the German iron-clad ship "Frederick Karl", Commodore Werner, escorting two Spanish revolted ships of war, the "Vittoria" and "Almanza", from Malaga to Carthagena. || 2. From the personal communications then made to me by Captain Ward, there is no doubt that, through the timely interference of the Commodore and himself, Malaga was saved from bombardment, bloodshed, and sacking. || 3. It appears, that Commodore Werner was lying at Carthagena when these revolted ships left that port under the command of General Contreras on the 28th ultimo, and that he was then aware of the Decree of the Government at Madrid (copy of which I inclose) having denounced these vessels as pirates, and supposing them to be about to proceed to Malaga to raise money and create disorder, he made arrangements to follow them, and steered at once for that port. || The Spanish General having, however, determined on a system of extortion and intimidation, stopped at Almeria and bombarded that defenceless town from 10 A. M. to 4 P. M., in the hope of getting a ransom; but, as the firm front of few troops

seems to have had the effect of preventing his landing, he was unable to carry out his purpose there. It must be observed that, although the General's intentions were anticipated, he gave no notice to the authorities of the place by which foreigners could have tried to escape and remove their property. ‖ This was clearly an act of piracy coming within the scope of their Lordships' telegram of the 24th ultimo. ‖ 4. The revolted ships then moved on to Motril, where General Contreras, under a threat of bombardment, levied a sum of 16,000 dollars on an unarmed and defenceless community. Having achieved this success, he proceeded to Malaga, where he was, fortunately, met by the German Commodore and the "Swiftsure". ‖ 5. Commodore Werner and Captain Ward (after consultation), having heard of General Contreras' recent piratical acts at Almeria and Motril, and feeling themselves to be further borne out by the Decree of the Spanish Government, determined to arrest his further course. On the appearance of the "Almanza" at Malaga on the 31st ultimo, the Commodore at once desired General Contreras to surrender himself and staff as hostages on board the "Frederick Karl", and then informed him that he should take him and convoy the revolted ships back to Carthagena. ‖ The "Frederick Karl" and "Swiftsure" were carrying out this determination when I met them about 60 miles east of Malaga. ‖ 6. About the time the revolted ships were to have arrived at Malaga I am informed that upwards of 2,000 roughs, terming themselves Red Republicans, with no apparent leader and without organization, entered the city; and it was their intention to co-operate with the revolted ships so soon as the expected bombardment commenced. Happily, their design was frustrated. ‖ 7. My appearance off Malaga this morning at daylight with the "Lord Warden", "Invincible", and "Pallas", had also a very reassuring effect upon the party of order, whilst, on the other hand, it destroyed all hope of the revolutionary rabble. ‖ After communicating with Her Majesty's Consul, and finding that all apprehension of further danger was at an end, I proceeded to Gibraltar, leaving the British subjects at Malaga under the protection of the "Lynx". ‖ 8. From all the information I have been able to gather, it appears that General Contreras is conducting operations on his own account entirely, and hoisting the red flag or a Spanish one (without the arms) as it suits his convenience. ‖ He was evidently in the course of making a raid on the towns of the coast for the purpose of creating disorder and raising money; and, as the telegraph wires are said to be cut throughout the country, the Spanish *de facto* Government were not in a position to arrest him. Had he been an authorized representative of a party in opposition to the existing Government, it would have been clearly the duty of the German ship and "Swiftsure" not to have interferred beyond affording the necessary protection to British and German life and property; but, as this does not appear to be the case, I trust that, under all the peculiar circumstances by which he was surrounded, Captain Ward's co-operation with the German Commodore will meet with their Lordships' approval. ‖ 9. On my arrival here this evening

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I was made acquainted by Captain Phillimore with their Lordships' telegrams of the 30th and 31st ultimo, and, in consequence of the instructions therein contained, I purpose to proceed to Cadiz early to-morrow morning, whence I shall make further report of my proceedings. ‖ 10. The squadron under my command now on the coast of Spain are stationed as follows: — "Triumph" and "Pigeon", at Cadiz; "Pheasant", at Gibraltar; „Lynx", at Malaga; "Swiftsure" and "Torch", at Carthagena; "Hart", at Valencia; "Rapid", at Barcelona; "Lord Warden", "Invincible", and "Pallas", about to proceed to Cadiz; "Helicon", waiting orders at Gibraltar with fires banked. ‖ 11. Captain Ward's report of proceedings is inclosed. ‖ I have, etc.

H. R. Yelverton.

Beilage.

Captain Ward to Vice-Admiral Sir H. Yelverton.

"Swiftsure", off Malaga, August 1, 1873.

Sir, — I have the honour to inform you that, in pursuance of orders from Captain Phillimore, I left Gibraltar at 6 P. M. on the 30th instant, and anchored off Malaga at daylight on the following morning, where I found the German iron-clad "Frederick Karl", with the broad pendant of Commodore Werner; also the French iron-clad "Jeanne d'Arc" (which vessel left for Cadiz in the evening). ‖ 2. In the course of the day we heard, that Almeria, a defenceless town, had been bombarded by the iron-clad "Vittoria" and frigate "Almansa". Commodore Werner and myself came to an agreement (copy inclosed), the nature of which was to force these two vessels back to Carthagena, or to capture them if they resisted and take them to Gibraltar. ‖ 3. Later in the day, by the courtesy of the Spanish telegraph officials, I discovered that the "Almansa" had been on the same afternoon (31st) levying a tribute of money on Motril; the whereabouts of the "Vittoria" was not precisely known. ‖ 4. Before daylight this morning Commodore Werner and myself were under weigh. As day dawned we discovered the frigate "Almansa" at a distance of nine miles S. S. E. of Malaga without colours; we chased her. A shell fired across her bows from the "Frederick Karl" made her hoist the Spanish colours without the coat of arms. ‖ 5. A copy of our joint agreement was sent on board. ‖ 6. General Contreras was on board of this vessel. Commodore Werner insisted on his own part that General Contreras, with some of his officials, should take passage to Carthagena in the "Frederick Karl". ‖ 7. At 7. 30 A. M. we discovered the iron-clad "Vittoria" at a distance from Malaga S. W. thirteen miles. We closed her. On closing her she dipped her ensign (Spanish without the arms) to us three times and stopped. ‖ Commodore Werner and

myself are about to escort them to Carthagena, where I shall be anxious to receive orders from you. || 8. These two vessels, without a doubt, would have bombarded Malaga had they not been thus interrupted. They are full of men and have tackles on their yards ready for hoisting out boats. || I have, etc.

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W. J. Ward.

P. S. — The "Vittoria", from the state of her bottom, can only steam five knots, so that we shall be some time on the way to Carthagena.

9. 30 A. M. W. J. W.

The vessels of war "Vittoria" and "Almansa", lately belonging to the Spanish navy, acting under an independent authority, the German Commodore commanding the German squadron in the Mediterranean, and Captain Ward, commanding Her Britannic Majesty's ship "Swiftsure", having received reliable information that these vessels had bombarded the defenceless town of Almeria, where is much foreign property, and that they have tried by this barbarous act to levy heavy contributions, the Commodore Werner and Captain Ward agree to force the Spanish vessels into a solemn declaration, which they will see carried out, that they retire and remain in the port of Carthagena until this action on their part is approved or reversed by the superior authorities of their several Governments, otherwise the Commodore Werner and Captain Ward will capture them and take them to Gibraltar, pending ulterior decision.

I agree in every respect to the above proposal.

T. Werner, Chief of the German Squadron in the Mediterranean.

William John Ward, Captain, Commanding Her Majesty's ship "Swiftsure", in company of "Frederick Karl".

Malaga, July 31, 1873.

Nr. 5225.

GROSSBRITANNIEN. — Min. d. Ausw. an den königl. Geschäftsträger in Berlin. — Mittheilung der Instructionen an die englischen Flottenoffiziere.

Foreign Office, August 3, 1873.

Sir, — The German Government will doubtless have before this received intelligence, that the German Commodore on the coast of Spain, while in company with Her Majesty's ship "Swiftsure", seized and carried into Cartha-

Nr. 5225. Grossbritannien. 3. Aug. 1873.

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gena the two revolted Spanish men-of-war "Vittoria" and "Almanza", thereby saving Malaga from being bombarded and sacked. || It appears, that General Contreras is, with his staff, detained as prisoners on board of the German frigate; and Her Majesty's Chargé d'Affaires at Madrid reports, that the Spanish Minister for Foreign Affairs has urgently demanded that the prisoners may not be released, but may be surrendered to the Spanish Government; suggesting, at the same time, that, if any formal difficulty should arise with regard to the surrender of the prisoners on account of the interruption of relations with the *de facto* Government of Spain, this difficulty might be evaded by landing the prisoners, with previous notice to the Spanish Government. || Her Majesty's Government are still without information as to the circumstances, under which the vessels were seized, but they have peremptorily prohibited British naval officers from taking any part in the surrender of prisoners. || You will inform the German Government of the nature of the instructions sent to Her Majesty's naval officers with regard to the surrender of the prisoners, and will consult it as to whether it would not, under the circumstances, be advisable to release the prisoners, and return to the *de facto* Government at Madrid, upon its demand, the captured vessels. || I am, etc.

Granville.

Nr. 5226.

FRANKREICH. — Min. d. Ausw. (Duc de Broglie) an die französischen Consuln in Spanien. — Mittheilung der Instruction an die französischen Flottencommandanten.

Versailles, le 4 août, 1873.

Nr. 5226. Frankreich. 4. Aug. 1873.

Monsieur, vous connaissez les dispositions du décret récemment publié par le Gouvernement Espagnol pour assimiler aux pirates et dénoncer comme tels aux commandants des forces navales étrangères les équipages des batiments de guerre *Almansa, Vittoria, Mendez-Nuñez, Fernando-el-Catolico* et autres navires insurgés de Carthagène. || Je viens de me concerter avec M. le Ministre de la Marine pour arrêter la ligne de conduite que devront suivre à l'égard de ces navires les commandants de nos forces navales. || Il a été admis que nos commandants, aussi bien ceux dont les navires sont mouillés dans les eaux espagnoles que ceux qui naviguent en plein mer, ne sont pas tenus de prêter leur concours aux mesures coërcitives décrétées contre les équipages insurgés. Nous avons dû reconnaître, en effet, que l'irrégularité des papiers de bord, qui, d'après nos lois, peut, dans certains cas, autoriser à traiter un navire comme pirate, ne saurait s'entendre des papiers délivrés par une autorité insurrectionnelle, surtout dans un pays en pleine guerre civile comme

l'Espagne. || Nos commandants ont donc été invités à s'abstenir de toute intervention entre les navires insurgés et les forces agissant au nom de l'autorité qui siége à Madrid. || Cette attitude devra être aussi la vôtre, mais vous comprendrez que je ne saurais vous tracer ici une ligne de conduite absolue. Nous entendons ne pas nous engager dans la lutte entre les deux partis; nous voulons, de même, nous abstenir de toute immixtion dans les actes que les équipages insurgés ou ceux auxquels ils obéissent peuvent ordonner et accomplir sur le territoire et dans les eaux espagnols; mais il peut arriver telles circonstances dans lesquelles la vie ou les biens de nos nationaux seraient menacés; alors il est évident que votre attitude devrait se modifier et que vous auriez à faire usage du droit de protection qui vous incombe en vertu de vos fonctions. Vous aurez, d'ailleurs, à vous concerter, le cas échéant, avec vos collègues étrangers de manière à adopter, autant que possible, des résolutions communes. || Recevez, etc.

Nr. 5226. Frankreich. 4. Aug. 1873.

Broglie.

Nr. 5227.

DEUTSCHLAND. — Botschafter in London an den englischen Min. d. Ausw. — Wunsch übereinstimmenden Handelns gegenüber den spanischen Verwicklungen.

(Translation.) German Embassy, Ryde, August 9, 1873.

Nr. 5227. Deutschland. 9. Aug. 1873.

My Lord, — I have had the honour, in a personal interview with your Excellency, to inform you, that my Government desires to come to an understanding with that of England respecting the communication of similar instructions to the Legations at Madrid, and to the respective naval Commanders, which might render a common action possible under present circumstances. || In this question my Government takes as basis: — || 1. In principle, non-interference in the internal Spanish struggles. || 2. Limiting military action exclusively to the protection of German life and property. || 3. The ships can prevent the bombardment of towns until such time as the life and property of Germans are in safety. || 4. The Naval Commander is instructed to act either in understanding with or according to instructions received from the Legation at Madrid. || I have now been instructed by my Government, in so far as the British Government may be agreed with that of Germany, to come to a formal agreement on this subject. || While looking forward to a speedy reply to this communication, I avail, etc.

Münster.

Nr. 5228.

GROSSBRITANNIEN. — Min. d. Ausw. an den königl. Geschäftsträger in Berlin. — Zustimmung zum Wunsche der deutschen Regierung.

Foreign Office, August 11, 1873.

Nr. 5228. Gross-britannien. 11. Aug. 1873.

Sir, — Count Münster has communicated to me the substance of a despatch and a subsequent telegram from Prince Bismarck, in which were recapitulated the events, which have occurred respecting the Spanish rebel ships of war, and in which was expressed the strong wish of Prince Bismarck that the instructions of the British and German Governments should be to the same effect. || I recounted the instructions we had given or were prepared to give: — || 1. Not to interfere excepting for the protection of British life and property; but that, in consequence of the earnest application of the Italian Government, in the absence of any Italian ships of war on the coast of Spain, Her Majesty's ships had been authorized to extend similar protection to Italian subjects in case of need; though only against persons not acting under the authority of the *de facto* Government of Spain. || 2. To exercise force, if necessary, for the purpose of such protection. || 3. To avoid seizing vessels, unless an absolute necessity arose, for the above-mentioned purpose; and in that case to set the persons in them free, but to hand over the vessels without official recognition to the *de facto* Government of Spain. || I observed, that I believed that on all these points but one there had already been an agreement between the two Governments; and I was glad to perceive, from the despatch of which Count Münster had given me an account, that the German Government now also agreed with Her Majesty's Government respecting the surrender of the Spanish vessels. || I mentioned to Count Münster, that I should make a point of communicating to the German Government any further information I received, or any fresh instructions which might appear necessary, relying on the reciprocity of the German Government. || Count Münster gave me the same assurance. || I then mentioned to Count Münster, that M. de Broglie had expressed a strong desire to Lord Lyons that, as France, Great Britain, and Germany were all desirous of avoiding interference in the internal affairs of Spain, it was certainly desirable, that their respective instructions to their Consuls and Naval Officers in Spain should be the same; and that M. de Broglie had stated to Lord Lyons, that M. de Philipsborn had expressed to the French Chargé d'Affaires at Berlin a wish that the Powers should take the same course. || Count Münster said he was not aware of any such opinion having been given, but he knew how desirous Prince Bismarck was to act in unison with Her Majesty's Government. || I am etc.

Granville.

Nr. 5229.

GROSSBRITANNIEN. — Vertreter in Madrid an den königl. Minister d. Ausw. — Die Madrider Regierung verlangt die Auslieferung der den Insurgenten abgenommenen Schiffe.

(Extract.) Madrid, August 11, 1873.

Nr. 5229. Gross-britannien. 11. Aug. 1873.

On the morning of the 9th instant the German Chargé d'Affaires called on me and informed me, that the Spanish Government had, without previously advising him, dispatched officers and crews to Carthagena, to take charge of the "Vittoria" and "Almansa", subsequently writing to him to ask him to give orders to Commodore Werner to deliver up those frigates. Baron Saurma replied, that he had no instructions from his Government to do so, and that the removal of the "Frederic Carl" to Gibraltar, left the frigates entirely in the hands of the "Swiftsure". ‖ Later in the day, Señor Soler y Plâ sent one of the clerks of the State Department to me to make the same request as previously to Baron Saurma, and I, in my turn, also replied, that I had no instructions. About an hour afterwards, I received an official communication, in writing, from Señor Soler y Plâ, translation of which I have the honour to inclose, requesting me to ask you Lordship, by telegram, for authorization to deliver up the frigates. Since then I have received a visit from Señor Soler, in person, who pressed the matter upon me, and his Excellency complained that the prisoners should have been released to commence their exploits afresh, but that the vessels were still kept back from the *de facto* Spanish Government.

Nr. 5230.

FRANKREICH. — Minister d. Ausw. an die Vertreter Frankreichs im Auslande. — Darlegung des französischen Standpunkts gegenüber den Ereignissen in Spanien.

(Extrait.) Versailles, le 11 août, 1873.

Nr. 5230. Frankreich. 11. Aug. 1873.

Monsieur, le Gouvernement ne s'écartera pas de l'esprit de modération et de réserve qu'il désire apporter à tous ses actes, et nous continuerons à faire du respect du droit de chacun la règle de notre conduite envers les puissances étrangères. ‖ Les événements qui se déroulent sur notre frontière du Midi nous fournissent l'occasion d'appliquer ces principes; nous y resterons scrupuleusement attachés. Au nord de l'Espagne, les forces carlistes continuent à se maintenir sur beaucoup de points et, bien qu'elles ne paraissent pas avoir fait

Nr. 5230. Frankreich. 11. Aug. 1873.

de progrès très-sensibles dans ces derniers temps, elles couvrent une étendue considérable du territoire. Dans les provinces de l'Est et du Sud, une série d'insurrections a éclaté sous prétexte de réaliser les plans du fédéralisme, et ce mot d'ordre a malheureusement servi, dans plusieurs villes importantes, à déterminer l'explosion de passions anti-sociales. || Au milieu de ces luttes, le premier devoir des cabinets étrangers était de veiller à ce que la sécurité de leurs nationaux ne fût pas compromise. A cet effet, la plupart de Puissances maritimes ont jugé nécessaire de montrer leur pavillon dans les eaux de l'Espagne. Cette précaution légitime devait faire naître une complication assez inattendue. En présence des navires étrangers en station dans différents ports, les équipages d'un certain nombre de bâtiments espagnols se sont révoltés et ont arboré le pavillon insurrectionnel. || Le Gouvernement de Madrid n'a pas hésité à décider que ces insurgés devaient être considérés comme pirates, et il a officiellement notifié cet avis aux Puissances. || Une semblable communication ne pouvait nous lier par elle-même, et tant que les rebelles n'avaient pas commis un acte constituant, au point de vue du droit international, un véritable fait de piraterie, nous ne pouvions prêter notre appui aux mesures ainsi décrétées. C'est en conséquence de ces principes que les instructions adressées à nos consuls et aux commandants de nos forces navales leur ont prescrit de se renfermer dans une attitude d'abstention complète, aussi longtemps que l'intérêt supérieur de la protection due aux résidents français ne leur paraîtrait pas compromis. Notre réserve n'est pas, à proprement parler, ce que le droit des gens qualifie de neutralité, car jusqu'à ce jour aucun des partis qui se sont déclarés contre l'administration issue du vote des Cortès n'a pu remplir les conditions nécessaires pour être considéré par les puissances tierces comme un véritable belligérant et pour revendiquer de leur part les égards dus à ce titre. Dans l'état actuel des choses, le pouvoir institué à Madrid conserve seul, à nos yeux, le caractère de Gouvernement établi, qui, même à défaut d'une reconnaissance officielle, peut lui assurer de notre part un traitement fondé sur les procédés de bon voisinage et sur la courtoisie internationale. C'est de ce point de vue que dérivent les règles de conduite que nous observons à l'égard de l'Espagne, tant sur notre frontière des Pyrénées que dans les eaux territoriales de la Péninsule. Agréez, etc.

Broglie.

Nr. 5231.

GROSSBRITANNIEN. — Captain Ward an Vice-Admiral Sir H. Yelverton. — Weiterer Bericht über die Vorgänge vor Carthagena.

"Swiftsure", off Escombrera, August 12, 1873.

Nr. 5231. Grossbritannien. 12. Aug. 1873.

Sir, — On the 8th instant, two small Spanish steamers of the Madrid Government with some troops arrived from Alicante to take charge of the "Vittoria" and "Almanza", believing that orders had been here received to deliver them. They were informed, that no such orders had been received. The Civil Governor of Alicante was of the party. ‖ This arrival created a commotion in Carthagena, a portion of an earthwork was commenced on the heights looking towards this anchorage. ‖ Commodore Werner and myself informed the Junta, that we should enforce the neutrality of the waters of Escombrera, in consideration of our situation with respect to the captive Spanish vessels. ‖ After a twenty-four hours' stay, we invited the remaining steamer (the other left soon after arrival) to return to Alicante or to follow his companion; his force was quite insufficient for the nature of his mission. ‖ The Junta declared, in a paper dated on the 9th instant, their intention to resist by force the delivery of these vessels of war to any other party than their own. ‖ On the morning of the 10th instant, Commodore Werner left this anchorage for Gibraltar in the "Friedrich Carl". The "Delphin" had arrived in the night with a peremptory order for him to proceed to Gibraltar. ‖ I sent a guard on board of the "Vittoria", and have now charge of both vessels. Until this time (10th), the Commodore and myself had thought proper to confine the vessels of war now in Carthagena within the limits of the harbour, for we had been threatened with an attack. ‖ I informed the Junta, that these vessels should be free to move anywhere, except in the waters of Escombrera, on their signing a paper to the effect that their vessels leaving Carthagena should not be directed against the property of subjects of Her Majesty the Queen or against those of any other neutrals. ‖ A paper drawn up by me to this effect, and also explaining my position with respect to them, was readily signed by the Junta (a copy herewith inclosed). On the afternoon of the 10th, the "Pallas" arrived *en route* for Barcelona, with verbal orders from Captain Phillimore to call here. I thought proper to detain her, as we had received late news that Barcelona was quiet, until the arrival of the "Lynx", which ship I have telegraphed for from Valencia should that place be quiet. General Contreras had, on the afternoon of the 10th, met the Madrid troop at Chinchilla, 90 miles from here on the road to Madrid; his force had been utterly routed and scattered. Contreras, with some other leaders had, however, escaped. This defeat will probably close the insurrection. ‖ General Contreras arrived at Carthagena at 2 A. M. this morning, and has ordered a levy of all men between the

Nr. 5231. Grossbritannien. 12. Aug. 1873.

ages of 18 and 40. ‖ The French iron-clad "Reine Blanche" arrived here on the 8th instant. The Consul and his party were landed from here on the 10th. The Spanish ships of war "Cadiz" and "Colon" called in here yesterday from Cadiz on their way to Alicante. ‖ I have, etc.

W. J. Ward.

Beilage 1.

Declaration.

Captain Ward, of Her Britannic Majesty's ship "Swiftsure", declares, that he will not consider it to be his duty to interfere with vessels of war leaving the harbour of Carthagena, if a declaration, signed by proper authorities, declare that — ‖ 1. Vessels of war issuing from the Port of Carthagena shall not be directed against the property of subjects of Her Majesty the Queen, or that of the property of subjects or citizens of any neutral Power. ‖ 2. That the said vessels shall not approach the vessels of war "Vittoria" and "Almanza", now under the protection of the British flag, in the Road of Escombrera, now occupied by a British force. ‖ 3. That, if necessary to indicate British protection, Captain Ward will order the English red ensign to be hoisted at the peak of each of these vessels, not as a mark or indication of possession, but as a protection, pending instructions from his Government. If circumstances should render it necessary to hoist this flag at all, it shall be hauled down as soon as the British protection ceases. ‖ 4. That failing to sign a document of this tenor, and to this intent Captain Ward will consider that vessels of war leaving the Port of Carthagena have for their direct objection the destruction of British or other neutral property, or that it is the intention to attack Her Majesty's ship under his command in the Road of Escombrera, or such vessels committed to his charge and guarded by a British force, in which case it will be the duty of the Captain of the "Swiftsure" to attack the said vessels of war instantly on leaving the harbour of Carthagena. ‖ This declaration is hereby solemnly given to prevent any misconstruction or misunderstanding until orders shall be received from Her Majesty's Government.

Dated, on board Her Britannic Majesty's ship "Swiftsure", this 10th of August, 1873.

W. J. Ward, Captain.

El Delegado de Relaciones Exteriores,

Mabus Calvo de Gwagis.

El Presidente del Gobierno Provisional.

Roque Bareda.

Beilage 2.

Nr. 5231. Gross-britannien. 12. Aug. 1873.

The German Minister at Madrid to his Consul at Alicante.

(Télégraphique.) Madrid, le 10 Août, 1873, a $1^1/_2$ heures de la matinée.

Prévenez immédiatement le Commodore Werner, s'il se trouve encore à Carthagène, et prévenez aussi le Capitaine Ward, que le droit de disposer sur les navires "Vittoria" et "Almansa" est confié à l'escadre Anglaise.

Nr. 5232.

GROSSBRITANNIEN. — Secretair des Ausw. Amtes an den Secretair der Admiralität. — Weitere Instructionen und Urtheil über das Verhalten der Flottenoffiziere.

a.

Foreign Office, August 20, 1873.

Nr. 5232. Gross-britannien. 20. Aug. 1873.

Sir, — I am directed by Earl Granville to request, that you will move the Lords Commissioners of the Admiralty forthwith to send to all Her Majesty's naval officers on the coast of Spain instructions in the following terms: — ‖ "To abstain from any proceeding from which sympathy with any party in Spain could be inferred, saving only the just respect which is due to those actually invested with the only public authority in the country having a semblance of regularity, and likewise engaged, so far as they may be engaged, in the maintenance of order and the defence of life and property. And further, confine their communications with the local authorities, whatever party those authorities may represent, to what may be necessary to enable them to discharge their duties under the instructions of Her Majesty's Government: namely, to provide for the safety of the persons and property of British subjects, or of any other friendly Power whose interests in Spain may be mixed up with those of British subjects, and who may be exposed to danger by the acts of persons not acting under the authority of the *de facto* Government of Spain; for this object to insist, with such persons who may meditate operations against any place in possession of the authorities of the *de facto* Government, that sufficient time should be allowed for embarking or placing in security the persons and property of those whom Her Majesty's naval forces are enjoined to protect; and, if an attempt should be made by such persons to carry off by sea British or allied subjects or property, to intercept the vessels, on which they may be embarked; moreover, under no circumstances to land any armed force except when absolutely required to insure the embarkation of persons and property for which they are authorized to provide; and,

Nr. 5232. Gross-britannien. 20 Aug. 1873.

finally, to take care that persons so embarked, while remaining on board the vessels which shall have received them, should not in any way interfere with the political disputes which may be in agitation, to land them as soon as may be done consistently with their security, but under no circumstances to deliver them over to their enemies." || I am, etc.

E. Hammond.

b.

Foreign Office, August 20, 1873.

Sir, — I have laid before Earl Granville your letters of the 11th, 12th, and 13th instant, respecting the proceedings of Her Majesty's naval officers with reference to the Spanish revolted ships; and I am directed by his Lordship to request, that you will state to the Lords Commissioners of the Admiralty that Her Majesty's Government regret any proceedings on the part of those officers inconsistent with the policy laid down in the instructions issued by Her Majesty's Government; no blame, however, attaches to the naval officers for not acting in conformity with the instructions sent to them which distance and difficulty of communication prevented them from receiving in time to influence their conduct; Her Majesty's Government make every allowance for the difficult and unprecedented position in which they were placed. || I am, etc.

E. Hammond.

Nr. 5233.

GROSSBRITANNIEN. — Min. d. Ausw. an den königl. Botschafter in Paris*). — Darlegung des englischen Standpunkts.

Foreign Office, August 20, 1873.

Nr. 5233. Gross-britannien. 20 Aug. 1873.

My Lord, — The Government to which you are accredited will have learned from the successive communications which you have been enabled by me to make to it, and from those which I have made to its Representatives in this country, the nature of the instructions given at intervals to Her Majesty's Naval Commanders in regard to the course to be pursued by them towards the Spanish revolted ships denounced by the *de facto* Government of Spain at Madrid as pirates, and to be treated as such. || Those instructions, issued between the 24th of July and the 11th of August, were to the following effect: — || 1st. That, if such vessels committed any acts of piracy affecting British subjects or British interests, they should be treated as pirates,

*) Gleichlautende Depeschen ergingen an die königl. Vertreter in Berlin und Rom.

the decree of the Spanish Government having deprived them of the protection of their flag; but, if they do no such acts, they should not be interfered with. || 2nd. That in such a case as occurred at Malaga, the British Naval Commander, if and when his force is sufficient for the purpose, should require the revolted ships to refrain from bombarding a town until sufficient time had been allowed for placing British life and property in safety, should enforce his demand, if it is refused; and, if it is granted, should give effect to the measures necessary for the security of British subjects and their property. || 3rd. That any measures taken for the defence of the subjects of the King of Italy, or of any other friendly Power whose interests in Spain may be mixed up with those of British subjects, should be directed only against persons not acting under the authority of the *de facto* Government of Spain. || 4th. That the Commanders of Her Majesty's naval forces on the coast of Spain should not sanction or permit the participation of any British officers in the surrender of any prisoners captured on board the revolted vessels to the Spanish Government, or in landing any such prisoners at a port in the hands of the Spanish Government, giving due notice to the latter. || 5th. That supposing the vessels to be in the sole custody of the British naval forces, the British Admiral, if duly applied to, should make over any vessels in his possession to the authorities duly appointed by the Spanish Government at Madrid to receive them. || It is true that, owing to distance and difficulty of communication, these instructions did not reach the British officers in time to influence their conduct, and therefore, much as Her Majesty's Government regret that those officers should have taken any proceedings inconsistent with the policy on which those instructions were founded, they are not prepared to impute blame to those officers who, in circumstances of no ordinary difficulty, were only able to act according to the best of their judgment. || Her Majesty's Government have no reason to doubt that, as the crews of the revolted ships have long since been set on shore, so also the ships themselves will have been given up to the authorities duly appointed by the *de facto* Government to receive them. || Thus much for the past. As regards the future, Her Majesty's Government can have no hesitation in declaring the policy which they desire to pursue in the present state of affairs in Spain. || They desire and intend not to interfere in any way in the affairs of that country; and in conformity therewith Her Majesty's naval commanders will be enjoined to abstain from any proceeding from which sympathy with any party in Spain could be inferred, saving only the just respect which is due to those actually invested with the only public authority in the country having a semblance of regularity, and likewise engaged, so far as they may be engaged, in the maintenance of order and the defence of life and property; and, further, to confine their communications with the local authorities, whatever those authorities may represent, to what may be necessary to enable them to discharge their duties under the instructions of Her Majesty's Government, namely, to provide

Nr. 5233. Gross-britannien. 20. Aug. 1873.

for the safety of the persons and property of British subjects, or of any other friendly Power whose interests in Spain may be mixed up with those of British subjects, and who may be exposed to danger by the acts of persons not acting under the authority of the *de facto* Government of Spain; for this object to insist with such persons who may meditate operations against any place in possession of the authorities of the *de facto* Government, that sufficient time should be allowed for embarking or placing in security the persons and property of those whom Her Majesty's naval forces are enjoined to protect; and if an attempt should be made by such persons to carry off by sea British or allied subjects or property, to intercept the vessels on which they may be embarked; moreover, under no circumstances to land any armed force except when absolutely required to insure the embarkation of persons and property, for which they are authorized to provide; and, finally, to take care that such persons so embarked, while remaining on board the vessels which have received them, shall not in any way interfere with the political disputes which may be in agitation, to land them as soon as may be done consistently with their security, but under no circumstances to deliver them over to their enemies. || You will communicate a copy of this despatch to the Government to which you are accredited, and you will say, that Her Majesty's Government would hear with pleasure that the policy which they had laid down for themselves was equally adopted by that Government, and would be glad to be made acquainted with the tenor of the instructions which it may give to its naval commanders. || You will add, that Her Majesty's Consuls in Spain have been directed not to interfere in any question of a political character that may arise, but to refer all such questions for instructions to Her Majesty's Chargé d'Affaires at Madrid, to whom a copy of the present despatch will be sent for his information and guidance, and in other respects to confine their action to the protection of British subjects and property. || I am, etc.

Granville.

Nr. 5234.

DEUTSCHLAND. — Botschafter in London an den engl. Min. d. Ausw. — Die deutsche Regierung wünscht gegenseitigen Schutz der Angehörigen in Spanien.

(Extract.) London, August 22, 1873.

Nr. 5234. Deutschland. 22. Aug. 1873.

I send you the translation of a telegram I received yesterday evening. I hope and suppose, that you will have no objection to look upon our agreement in the same way my Government does, and to admit that our ships and

Commanders may, in case of need, protect mutually our subjects in Spain. If this is the case, be kind enough to telegraph or to write to me to Ryde, where I go this evening. My address is The Lawn, Ryde.

Nr. 5234. Deutschland. 22. Aug. 1873.

Beilage.

Telegram received by Count Münster, August 21, 1873.

Le Gouvernement Impérial en donnant, d'accord avec l'Angleterre, des instructions au Commandant de l'escadre Allemande dans les eaux Espagnoles, est parti du point de vue, qu'il est du devoir des Commandants respectifs de coopérer mutuellement pour la protection de la vie et de la propriété des sujets Allemands ou Britanniques partout où se trouvent des bâtiments de guerre ou le Consulat d'une des deux Puissances, dès que ce concours de l'autre Commandant aura été requis soit par le Consul soit par le Commandant de ces navires. || Le Gouvernement Impérial croit agir de concert avec le Gouvernement Britannique en donnant encore l'ordre exprès au Commandant de l'escadre Allemande de protéger en cas de besoin aussi la vie et la propriété des sujets Britanniques de son chef sur la demande de ces sujets mêmes, s'il n'y a pas de Consul ou pas de vaisseaux de guerre Anglais sur place. || Pour être sûr que cette manière de voir soit conforme à celle du Gouvernement de Sa Majesté Britannique, votre Excellence est priée d'en parler à Lord Granville et de communiquer la réponse de son Excellence.

Nr. 5235.

GROSSBRITANNIEN. — Min. d. Ausw. an den deutschen Botschafter in London. — Die englische Regierung hält die bisherigen Instructionen für ausreichend.

(Telegraphic.) Foreign Office, August 25, 1873.

Our naval officers on the Spanish coasts are instructed to provide for the safety of the persons and property of British subjects, or of any other friendly Power whose interests in Spain may be mixed up with those of British subjects, and who may be exposed to danger by the acts of persons not acting under the authority of the *de facto* Government of Spain, and corresponding instructions to German officers would seem to meet all that is necessary to be provided for. No special instructions, such as are sent to naval officers, have been given to British Consuls.

Nr. 5235. Gross-britannien. 25. Aug. 1873.

Nr. 5236.

GROSSBRITANNIEN. — Min. d. Ausw. an den königl. Geschäftsträger in Berlin. — Weitere Begründung der englischen Ansicht.

(Extract.) Foreign Office, August 30, 1873.

Nr. 5236. Gross-britannien. 30. Aug. 1873.

Count Münster repeated to me to-day, that the German Government had been informed, by the communication made to them by you of my despatch of the 20th instant, of the instructions which had been given to the British Naval Officers on the coast of Spain, and which were respectively dated the 24th and 30th July, and 2nd, 3rd, 11th, and 20th instant. His Excellency said, that they had found in these instructions the points upon which he and I had agreed: that it was desirable that both Governments should follow the same line, but that they had observed that there was no mention made in these instructions of the agreement between the two Governments that similar instructions should be given, and that they, moreover, found that in the instructions to defend the interests of foreigners in certain cases, this was only to be done when the interest of the foreigner was intermixed with that of British subjects. ‖ I remarked, in reply, that while we were desirous to act in common with the German Government, and while those acting under our orders in Spain showed themselves to be desirous of doing so in the most cordial manner, yet I had understood that Prince Bismarck had been of the opinion, in which I entirely agreed, that it was better not to have any formal agreement, although we should follow the same course in principle and in details. I added, that I believed our instructions, if similar ones were given to the German naval officers, would accomplish this; that with regard to the protection to be given to others than the subjects of Her Majesty, the question had first arisen with regard to the Italians, to whom, in the absence of their ships, I had promised protection; and it did not appear to me, that there was any practical object for a change, as there were English subjects in almost all of the Spanish ports, and there was no doubt the instructions already given would be fully acted upon. ‖ Count Münster expressed a wish that an intimation should be made to our Chargé d'Affaires at Madrid, and through him to our naval officers, that although no formal agreement exists, the two Governments were acting "d'un commun accord". I answered, that our Chargé d'Affaires has been fully informed of what had passed between the two Governments; and that as soon as we know that instructions, similar in effect to those we had sent, had been forwarded to the German naval officer, I would immediately cause our officers to be informed of the agreement which existed.

Nr. 5237.

FRANKREICH. — Min. d. Ausw. an den französischen Geschäftsträger und die Consuln in Spanien. — Uebereinstimmung der englischen und französischen Instructionen.

Versailles, le 29 août, 1873.

Nr. 5237. Frankreich. 29. Aug. 1873.

Monsieur, lorsque je vous ai adressé, sous la date du 4 de ce mois, mes instructions au sujet de la ligne de conduite que vous aviez à suivre en présence des complications dont l'Espagne est actuellement le théâtre, je vous invitais d'une manière générale à vous concerter, le cas échéant, avec vos collègues étrangers de manière à adopter, autant que possible, des résolutions communes. Il devait être d'autant plus aisé pour vous de suivre mes recommandations que les directions tracées par les différentes Puissances à leurs agents s'inspireraient davantage des principes de droit d'après lesquels nous nous guidons. Une communication que vient de me faire M. l'Ambassadeur d'Angleterre à Paris*) me permet de reconnaître le parfait accord qui règne entre les vues du Gouvernement Britannique et les nôtres, en même temps que le désir de ce Gouvernement de nous voir marcher d'accord avec lui dans les questions soulevées par l'état actuel de l'Espagne. || Il résulte des instructions envoyées aux agents diplomatiques et consulaires ainsi qu'aux commandants des forces navales de l'Angleterre en Espagne, que le Gouvernement Britannique entend n'intervenir d'aucune façon dans les affaires intérieures de ce pays. Les agents anglais ont reçu l'ordre de s'abstenir de toutes relations pouvant témoigner de sympathies pour un parti quelconque, sauf les égards dus aux représentants du pouvoir de fait qui se trouve actuellement chargé du maintien de l'ordre. Ils devront se borner aux démarches nécessaires pour assurer la sécurité des personnes et des biens des sujets anglais. En cas d'opérations dirigées par des insurgés contre une ville soumise au Gouvernement de Madrid, ils réclameront un délai suffisant pour la mise en lieu de sûreté de leurs nationaux, et s'opposeront aux tentatives de violence dont ceux-ci seraient l'objet. Ils veilleront, en outre, à ce que les personnes auxquelles ils accorderont leur protection évitent toute immixtion dans les luttes engagées entre Espagnols. || Ainsi les instructions anglaises sont basées, comme celles que j'ai eu l'honneur de vous transmettre récemment, sur le double principe de la non-intervention dans les luttes intestines de l'Espagne et de la protection matérielle due aux nationaux en cas d'insuffisance des garanties offertes par le Gouvernement légal établi dans la capitale du pays. J'ai cru devoir vous informer sans retard de l'identité qui règne entre les règles de conduite tracées aux agents anglais et celles auxquelles vous avez été invité à vous conformer vous-même.

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*) S. oben Nr. 5233. A. d. Red.

Nr. 5237. Frankreich. 29. Aug. 1873.

Cette circonstance, que j'ai constatée avec une satisfaction sincère, ne peut manquer de faciliter votre tâche, en préparant une entente pratique entre vos collègues anglais et vous sur toutes les difficultés imprévues qui pourraient survenir dans votre résidence. L'accord que je vous recommande est, par lui-même, un résultat très-désirable à mes yeux, et vous voudrez bien vous attacher à le maintenir dans les différentes conjonctures qui se présenteront. || Recevez, etc.

Broglie.

Nr. 5238.

GROSSBRITANNIEN. — Vice-Admiral Sir H. Yelverton an den Secretair der Admiralität. — Schwierigkeiten der Uebergabe der Schiffe an die Madrider Regierung im Angesicht der Insurgenten in Carthagena.

"Lord Warden", Escombrera Bay, Carthagena, August 25, 1873.

Nr. 5238. Grossbritannien. 25. Aug. 1873.

Sir, — I have the honour to acquaint you, for the information of the Lords Commissioners of the Admiralty, that Admiral Lobo, in command of a small Spanish squadron under the *de facto* Government of Madrid, came off this port again, on the 21st instant, from Algeciras, for the purpose of receiving into his charge the revolted frigates "Vittoria" and "Almansa." || 2. Admiral Lobo sent his secretary to me from the offing, in the middle of the night of the 21st, to make inquiries as to what he should do. I replied, that I required the Admiral to produce a written authority from the Madrid Government that he was the officer appointed to receive the two ships. I believe, that Admiral Lobo had no such document at that time in his possession. || 3. On ascertaining the strength of Admiral Lobo's squadron to be one large wooden frigate and three paddle-wheel vessels, with not more than 500 available men to form the crews of the "Vittoria" and "Almansa", I plainly told the Admiral's secretary that this force was totally inadequate to enable the Admiral to resist an attack from the insurgents at Carthagena, if he attempted to approach the port. The Secretary returned to his ship, and the Madrid Government squadron has not since been seen. || 4. It is necessary, that the situation of the revolted frigates in my possession should be clearly explained to their Lordships. These vessels now lie in the neutral waters of Escombrera, absolutely under the guns of the forts in occupation of the insurgents, and surrounded by Italian, American, German, and English ships of war. || Both vessels are securely moored with six shackles of chain on each bower; and, with the mechanical means on board them, it would occupy at least five or six hours to weigh their anchors. There is a guard placed on board each

Nr. 5238. Gross-britannien. 25. Aug. 1873.

ship from the "Swiftsure". || 5. To enable Admiral Lobo to take possession of the "Vittoria" and "Almansa" in their present positions it would be necessary for me to intimate to the chiefs of the insurgents in Carthagena, that the neutrality of Escombrera-Bay was at an end, and to give notice to the same effect to all foreign ships of war, in order that they might remove from the anchorage. This information would be the signal for the commencement of hostilities on the part of the insurgents, who have three iron clad ships well manned and armed, at their disposal, together with their forts covering the two frigates. Admiral Lobo must first silence the fire of the forts, and drive into port the insurgent ships, before he could take charge of the frigates. This he could not do, and consequently the revolted ships would again fall into the hands of the insurgents, a result not at all to be desired. || 6. Even if I placed the frigates in question in possession of Admiral Lobo on the high seas, he could not, in the face of the superior naval force of the rebels, secure their safety. They would follow and defeat his squadron, regaining their prizes. To adopt this latter course would be viewed by the insurgents as an act of interference and a breach of neutrality, which they would undoubtedly resent on British subjects and property now in their power in Carthagena. Should they unfortunately, in their exasperation, be tempted to fire on my squadron, when in the act of removing these frigates, a further complication of difficulties would arise, which, under existing circumstances, it is of the utmost importance to avoid. || 7. In proof of the active determination of the insurgents, the iron-clad ships "Numancia" and "Mendez Nunez" proceeded to the offing on the evening of the 24th to meet and attack Admiral Lobo, who was expected with his squadron that night. Fortunately, the Admiral did not make his appearance, and the insurgent ships returned to the entrance of the harbour, where they are anchored, and were reinforced by another large ship, the "Ferdinando el Catolico". This movement of the insurgents compelled me to order the "Triumph" and "Torch" to be in readiness to watch their ships. || 8. These facts, and the inconvenience of keeping so large a portion of my squadron at this place, merely for the protection of the revolted ships "Vittoria" and "Almansa", determined me to inform your Lordships by telegraph of the return of Admiral Lobo for the purpose of claiming the captured vessels; that the force under his command was insufficient to secure them from seizure by the insurgents. I stated, that I did not think it advisable, at so critical a moment, to give them up to him, as, the rebels being greatly excited, to do so might cause serious danger to British life and property at Carthagena. I suggested, that, in order to avoid all difficulty with regard to non-intervention and neutrality, the ships should be sent to Gibraltar and there detained in British custody until the recognotion of a Spanish Government on the suppression of the insurrection. I added, that my views were shared by the foreign Admirals here. || 9. Their Lordships will perceive, that my object is that the revolted ships may not by any act of ours

Nr. 5238. Gross-britannien. 25. Aug. 1873.

again fall into possession of the rebels. || 10. The small force of the Madrid army brought into the field, and the determined attitude assumed by the insurgents in Carthagena, who have vast reserves of guns and ammunition at their command, and their communications by sea uninterrupted, induces me to think, that the siege will be prolonged for a much greater period than at first anticipated. Under these circumstances I am compelled to keep the greater part of my squadron here; whereas, if the "Vittoria" and "Almansa" were removed to Gibraltar, one iron-clad ship and a small vessel would be sufficient to watch the rebel ships and protect British interests. I therefore trust their Lordships will see fit to press my suggestion, contained in the telegram referred to, upon the favourable notice of Her Majesty's Government. I may add, that the foreign Admirals entirely concur with me. || 11. Should I receive instructions to send the Spanish frigates to Gibraltar, the "Triumph" and "Swiftsure" will be detached for that service, the "Triumph" remaining there to protect those vessels, and the "Swiftsure", after completing coals and provisions, will return to relieve the "Lord Warden". || I should then proceed to Gibraltar to coal, and come back to this part of the coast, until the insurrection is at an end. || 12. It is just possible, as the Madrid forces cannot prevent them from doing so, that the rebels might proceed in their iron-clad ships to other places on the coast, for the purpose of levying contributions or raising the standard of revolt. || The insurgent Chiefs are in possession of the English newspapers and consequently of some of the views of the British Government; and it was thus they were enabled to make preparations for resisting Admiral Lobo's mission from the Madrid Government. || 13. A large ship would be absolutely required to guard the revolted ships at Gibraltar, and I would submit, that the "Triumph" be appropriated for that service, until they are given over to the ruling Powers in Spain. || I have, etc.

H. R. Yelverton.

Nr. 5239.

GROSSBRITANNIEN. — Vice-Admiral Sir H. Yelverton an den Secretair der Admiralität. — Bericht über die Wegführung der "Vittoria" und "Almanza" nach Gibraltar.

(Extract.) "Lord Warden", Escombrera-Bay, Carthagena, September 1, 1873.

Nr. 5239. Gross-britannien. 1. Sept. 1873.

With reference to my letters dated respectively the 25th and 26th ultimo, in which I partly prepared the Lords Commissioners of the Admiralty for some difficulties arising between the Intransigentes and myself, when removing the Spanish ships "Vittoria" and "Almansa" from Escombrera-Bay to Gibraltar,

Nr. 5239. Gross-britannien. 1. Sept. 1873.

I have now the honour to report, for the information of their Lordships, that those ships proceeded under steam to-day to Gibraltar, escorted by the "Triumph" and "Swiftsure", without any other opposition than a written protest from the Junta in Carthagena, that the responsibility of doing so by force rested upon me. ‖ I beg to inclose the copies of the correspondence which has passed between the British Consul and myself in reference to the so-called Junta of the Intransigentes, from which their Lordships will perceive, that I was led to believe that any determination to remove the detained ships would be met by every possible opposition from the Intransigentes, and seeing that two iron-clad ships anchored outside the harbour, and one at the entrance, together with the forts commanding the passages out of Escombrera, it appeared to me more than probable that our ships would be fired upon. ‖ I therefore determined, after taking the opinions of the three captains of the iron-clads, viz., Messrs. McCrea, Brandreth, and the Honourable W. F. Ward, who unanimously agreed with me to give notice to the Intransigentes authorities in Carthagena through the British Consul, that I should remove the ships at all risks. ‖ A communication to that effect was given on the 30th of August to the Junta, with 48 hours' notice, which expired at noon to-day. I received no reply until about 8 o'clock this morning, when it came in the form of a protest I have mentioned. ‖ Yesterday I removed by means of the "Torch", "Hart", and "Pheasant", assisted by an Italian gun-vessel, the "Anthéon", all English and Italian ships, as well as those of other friendly Powers from the harbour; the Consul having given directions for British and other foreign subjects to place themselves in safety. I also acquainted the flag officers and the captains of the foreign squadrons and ships of my intentions, and that I should fire if fired upon. ‖ Last evening I arranged a programme for the line of action to be taken by my squadron in the event of meeting with resistance, and the large ships were ordered to prepare for ramming. ‖ This morning the several ships, with steam up at full speed, being in every respect ready, I made the signal to weigh at 11.30, and within a few minutes of noon, the "Vittoria" proceeded under steam from Escombrera-Bay, followed by the "Almansa". The "Swiftsure" and "Triumph" shortly took their stations on their starboard beam, as a cover from the fire of the ships or forts. I followed in their wake with the "Lord Warden", "Torch", "Hart", and "Pheasant". ‖ The "Helicon" was ordered to stand off out of the range of the guns, and thus we proceeded to sea, without the least demonstration of hostility on the part of the Intransigentes. — — — ‖ I am, at present, assisted here in watching the "Numancia" and "Mendez Nunez" by the Italian Vice-Admiral, the Baron di Brochetti, who has most readily placed an iron-clad to follow and observe the movements of the "Mendez Nunez", whenever she may put to sea, whilst the "Lord Warden" supervises those of the "Numancia".

Nr. 5239.
Gross-
britannien.
1. Sept. 1873.

Beilage 1.

(Translation.)

To the Admiral of the English squadron in the waters of Escombrera.

With deep sorrow we come lamenting daily the difficulties which arise in your country, as in ours, owing to the prolonged detention of the frigates "Vittoria" and "Almanza" of this canton, and now under the protection of the British flag. We are agreed, that the unravelling of the delicate complication tied amongst all will not take place without great sacrifices, either from us or from the partizans of the Government of Madrid. Aware of the clearness which in the diplomacy of Europe such steps must have which resolve an affair so new and delicate, and considering that the first compromise offered and signed by the Prussian Commodore Werner and the Honourable Captain Ward, was not complied with, that the ships "Almanza" aud "Vittoria" were to have returned to the port of Carthagena, we propose to you — || That you notify to your Government the high consideration of impartiality which it deserves from all Spaniards, without distinction of party, if it should resolve that the above-named ships, "Vittoria" and "Almanza", were not given up but to the Government which should vanquish in this internal warfare, in which the two Republics question the legitimate representation of the Spanish people. || With this understanding the above-named ships could be transported, as a more peaceful place, to Gibraltar; and the people of Carthagena, who so love them, would see them depart without sorrow, considering the subjects of noble England the same as of the other nations, with the respect and fraternity which it holds for those who are their loyal guests. || Whilst this consultation was sent to the Government of your nation, the ships should not be given up to any one, and that they should stop at Escombrera until the result be known. || We should like to receive a signal proof of your sympathies towards those who so often have gladly seen your flag in their waters, should you approve of this proposition, also the reiterated offer of our most distinguished consideration.

Nicolas Calbo de Guayt, Delegate of the State.
Roque Barcia, President.
Juan Contreras, General-in-chief.
Pedro Gutierrez, President of the Junta.

City of Carthagena, August 22, 1873.

Beilage 2.

(Translation.) Provisional Government of the Spanish Federation.

The frigates "Vittoria" and "Almanza" having been detained by the ships "Frederick Carl" and "Swiftsure", in the waters of Malaga, under promise of

being conducted to the port of Carthagena, this Government has been informed that the nations of the detainers have resolved to deliver the said frigates to the Government of Madrid; and conceiving that this resolve involves the usurpation of the ships "Vittoria" and "Almanza" from the Murcian Canton, to which they belong, we have agreed to oppose the vessels which intend carrying out this delivery, whatever be the nation they belong to, employing for this all resources within our reach, and denouncing the said usurpation to all civilized nations, so that, at least, history may record its sentence.

Felix Ferrar, Delegate of the State, Delegate of War and Marine.
Roque Barcia, President.
Pedro Gutierrez, President of the Junta.
Juan Contreras, General-in-chief.

Carthagena, August 29, 1873.
To the Admiral of the Franco-Prussian Squadron.

Beilage 3.

(Translation.)

Provisional Government of the Spanish Federation.

Having received your communication, notifying that the English Admiral would take the frigates "Almansa" and "Vittoria" to Gibraltar at 12 o'clock to-morrow, we beg to answer that we protest against this act of force, leaving the responsibility of this act on the said Admiral. || Health and federation.

The President of the Government and General-in-chief,
Juan Contreras.

Carthagena, August 31, 1873.
To the British Consul in Carthagena.

Nr. 5240.

SPANIEN. — Die revolutionaire Junta von Carthagena an den englischen Consul daselbst. — Verlangen der Anerkennung als Kriegführende[1]).

(Translation.) Carthagena, September 1, 1873.

Nr. 5240. Spanien. 1. Sept. 1873.

Considering that no European nation except Switzerland has officially recognized the Central Government; || Considering that Government as seditious — before the Constitutional Assembly — the only sovereign Power inside the Centralist order, which power is proclaimed by the. Federal Republic — so as to Government would make it impossible with their traitors politic, delaying purposely the votes of the Constitutional Pact, and perpetrating the feudal regimen of the late despotism; || Considering that that Government, really factious, have called pirates the supporters of the rights created by the Assembly, genuine representatives of the national sovereignty; || Considering that the Cantonal movement, at the same time, initiated and sustained in the illustrious city of Carthagena, has been immediately seconded by a great part of the Spanish people, as is demonstrated by the insurrection of Seville, Cadiz, Granada, Malaga, Salamanca, Badajoz, Castellon, and Valencia; || Considering that said movement counts with garrisons, fleet, regular troops, militia, and Government acknowledged in their respective borders; || Considering that the Spanish Federal Revolution disposes of the first elements and of the original reasons that constitute all people or nations; || Considering that everyone of those elements would suffice for civilized nations to grant the Canton Murciano the right of belligerents by land and sea: || The Government of the Spanish Federation believes now the time of inquiring in what consists is considered, what place occupies in the opinion of the great Polemics, and what is the destiny reserved to the men of the Canton Murciano, the initiators of the Federal movement, to the legitimate representatives of the vote of our sovereign Cortes. The Provisional Government of the Spanish Federations requires to know, if it is the enemy of some nations or a belligerent State — depositor of the wish of one constituted Assembly — organ of the most powerful aspiration of the Spanish people — incarnation of the supreme necessity of our race, of our genius, and of our country. || This Provisional Government begs of you, Mr. Consul, to be so kind as to elevate to your Government the spirit of the present note, for us to know, if, in the interior of enlightened Europe — of modern Europe — of Christian Europe, we are to be free or

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[1]) Wir theilen dieses Actenstück seines characteristischen Inhalts wegen nach dem englischen Blaubuche mit, trotz der offenbar überaus mangelhaften und theilweise sinnentstellenden Uebersetzung. A. d. Red.

slaves — white or black; and if they say we are black, and if they say we are slaves, let us know it-fact, to console ourselves with the lament of a generation and with the complaint of history. || Beg to accept, etc.

Nr. 5240. Spanien. 1. Sept. 1873.

Juan Contreras, General-in-Chief.
Roque Barcia, President of the Government.
Nicolas Calvo Guayte, Delegate for Foreign Affairs.
Pedro Gutierrez, President of the Junta.

Nr. 5241.

GROSSBRITANNIEN. — Secr. d. Ausw. Amts an den Secretair der Admiralität. — Instruction betr. des drohenden Bombardements von Alicante durch die Insurgenteu.

Foreign Office, September 21, 1873.

Sir, — I have laid before Earl Granville your letter of this morning, inclosing a telegram from Rear-Admiral Campbell, stating that Insurgent frigates are threatening to bombard Alicante, and that he had insisted on four days' notice, subject to approval of Government; and I am to request, that you will acquaint the Lords Commissioners of the Admiralty that Lord Granville is of opinion that the Rear-Admiral should be informed that his requirement for delay is approved, but that he is not to require such delay to be extended beyond the time necessary for placing British subjects and movable property in safety, and that the same facilities should be given, if possible, for the same purpose to other foreigners. || I am, etc.

Nr. 5241. Gross-britannien. 21. Sept. 1873.

E. Hammond.

Nr. 5242.

FRANKREICH. — Viceconsul in Alicante und Min. d. Ausw. — Anfrage wegen des drohenden Bombardements und Antwort darauf. — Telegramme.

a.

Alicante, le 21 septembre 1873, 2 h. 21 m. matin.

Les frégates insurgées menacent de bombarder Alicante. L'amiral anglais demande quatre jours de sursis, sauf approbation du cabinet de Londres. Il

Nr. 5242. Frankreich. 21. Sept. 1873.

Nr. 5242. Frankreich. 21. Sept. 1873.

y a d'immenses quantités de marchandises françaises qu'il est impossible d'évacuer. La seule protection efficace serait d'autoriser les forces navales anglaises présentes à défendre le bombardement. Envoyez-moi des instructions par voie télégraphique.

Rocher.

b.

Versailles, le 21 septembre 1873, 11 h. 1/2 du matin.

Réclamez le sursis pendant le temps nécessaire pour l'évacuation de nos nationaux. Déclarez en même temps que nous demanderons la réparation de tout préjudice apporté aux intérêts français. Ordre est donné au commandant de l'escadre de la Méditerranée d'expédier sur Alicante des forces navales suffisantes pour faire respecter les droits de nos nationaux, ou obtenir, s'il y a lieu, réparation.

Broglie.

Nr. 5243.

GROSSBRITANNIEN. — Secretair der Admiralität an den Secretair d. Ausw. Amts. — Mittheilung über die Vorgänge bei Alicante.

Admiralty, September 26, 1873.

Nr. 5243. Gross-britannien. 26. Sept. 1873.

Sir, — I am commanded by my Lords Commissioners of the Admiralty to acquaint you, for the information of Earl Granville, that a telegram has been received from Vice-Admiral Sir Hastings Yelverton, reporting the arrival at Alicante of the French squadron. He states that the French Vice-Admiral Touchard had orders to co-operate with him, and that they had conjointly required a further delay of forty-eight hours in the bombardment, the notice of which expires on Saturday morning. Twenty-five foreign merchants had been shipped. The Spanish insurgent vessels had arrived from Carthagena on the previous night, accompagnied by Her Majesty's ships "Doris" and "Swiftsure". The Admiral adds, that all British and foreign subjects were safe. || I am, etc.

Robert Hall.

Nr. 5244.

GROSSBRITANNIEN. — Secretair d. Ausw. Amts an den Secretair der Admiralität. — Erneute Einschärfung strenger Neutralität.

Foreign Office, September 24, 1873.

Nr. 5244. Gross-britannien. 24. Sept. 1873.

Sir, — With reference to my letter of the 21st instant, suggesting, by direction of Earl Granville, that Rear-Admiral Campbell should be informed that his requirement for delay previously to the commencement by the insurgent forces of the threatened bombardment of Alicante was approved, but that he was not to require such delay to be extended beyond the time necessary for placing British subjects, and, if possible, other foreign subjects and their movable property in safety, I am directed by his Lordship to state to you, for the instruciion of Rear-Admiral Campbell, that, in conformity with the principle of the former instructions, and more specifically those of the 30th of July (by which British naval officers were directed to require revolted ships to refrain from bombarding a town until sufficient time had been allowed for placing British life and property in safety), Her Majesty's Government do not consider that the delay of four days required by the Rear-Admiral to enable any British subjects to withdraw and remove their property, is unreasonable. || Beyond this, Her Majesty's Government consider there should be no interference, unless any circumstances specially and exceptionally affecting British subjects (or other foreign subjects within the protection contemplated by the Instructions of the 2nd and 20th of August, namely, the subjects of the King of Italy, or of any other friendly Power whose interests in Spain may be mixed up with those of British subjects, and who may be exposed to danger by the acts of persons not acting under the authority of the *de facto* Government of Spain), should appear to require and justify it. || But Her Majesty's naval officers must bear in mind, that no question as to foreign subjects is in any degree to interfere with the paramount duty of protecting British life and property. || Her Majesty's Government would desire, that it should be specially impressed on Her Majesty's naval officers on the coasts of Spain, that it is no part of their duty to interfere to stop generally naval operations undertaken by insurgent ships against Spanish sea ports, but that their interference must be limited to the occasions and the objects which I have now repeated. || Her Majesty's Government also would desire, that British naval officers should be reminded of the Instruction of the 24th of July, which limited interference with insurgent ships to those which should commit any acts of piracy affecting British subjects or British interests; and that it should be pointed out to them, that, if an attack is made at sea upon any foreign vessel by a ship belonging to no recognized national Government who can be made responsible for such act, such attack is piracy; but that as regards an

Nr. 5244. Gross-britannien. 4. Sept. 1873.

attack by a ship in possession of insurgents against their own domestic Government, upon the ships of that Government at sea, or upon its cities, ports, or people, within the territorial limits of their own nation, such attack is not piracy; and that for this purpose it makes no difference whatever that foreigners resident within that territory, or their property, may be exposed to danger from such operation. || I am, etc.

E. Hammond.

Nr. 5245.

GROSSBRITANNIEN. — Min. d. Ausw. an den königl. Vertreter in Madrid. — Bedingung für Auslieferung der Schiffe.

Foreign Office, September 24, 1873.

Nr. 5245. Gross-britannien. 24. Sept. 1873.

Sir, — Her Majesty's Government have had before them the repeated representations made to you by the Spanish Government for the delivery of the two Spanish ironclads which were removed by the British naval forces from Carthagena to Gibraltar, on the 1st instant, and which have since been held in deposit there, awaiting the decision of Her Majesty's Government as to their disposal. || Señor Rubio has made similar representations in this country. || I have now to authorize you to state to the Spanish Government, that Her Majesty's Government are prepared at once to make over to them the two vessels on receiving from them, through you, an assurance that, if, in consequence of that proceeding, British property should be seized or destroyed at Carthagena by the Insurgents, the Spanish Government will be prepared to indemnify the sufferers for the losses they may thereby sustain. || If you receive this assurance, you will at once inform Vice-Admiral Yelverton, or the Senior Naval Officer at Gibraltar, that the assurance which you were instructed to require from the Spanish Government, as the condition of the vessels being delivered over to them, having been given, he may forthwith, in pursuance of the contingent instructions which he will have received from the Admiralty, make over the ships to the officer or other authority who may be appointed by the *de facto* Government of Spain to receive them. || You will inform me by telegraph of the result of your communications with the Spanish Government in pursuance of these instructions. || I am etc.

Granville.

Nr. 5246.

GROSSBRITANNIEN. — Vertreter in Madrid an den königl. Min. d. Ausw. — Annahme der Bedingung und Uebergabe der Schiffe.

Madrid, September 26, 1873.

Nr. 5246. Grossbritannien. 26. Sept. 1873.

My Lord, — On receipt of your Lordship's telegram dated the 24th instant, at 9.20 P. M., I lost no time in calling on Señor Carvajal and informing him, that Her Majesty's Government was prepared to release the two frigates detained at Gibraltar, if the Spanish Government were willing to give me the assurance that, in the event of British property at Carthagena being seized or destroyed by the Insurgents, in consequence of the delivery of those vessels, a full indemnity for the losses sustained would be granted by Spain. || Señor Carvajal replied, that he had no doubt the Spanish Government would, on being made acquainted with this condition, which he would at once submit to them, comply with the request of Her Majesty's Government. || Accordingly, in the afternoon of the same day I received the communication, translation of which I have the honour herewith to inclose, thanking Her Majesty's Government for the restitution of the frigates, and engaging themselves (the Spanish Government) to indemnify all losses that may be sustained by British subjects at the hands of the Insurgents due to the delivery of those frigates to the Spanish Government. || I took that opportunity to point out to his Excellency, that the release of the frigates had been resolved upon by Her Majesty's Government before they had been made acquainted with the contents of his note of the 24th instant, and that I trusted that he would see the propriety of withdrawing it at once. I likewise called his attention to certain articles which had appeared in the Madrid newspapers severely criticizing the conduct of Her Majesty's Government in this question, and asserting that a rupture between the two countries was imminent. In reply, his Excellency said that not only was he most desirous to withdraw the note in question, but hoped that Her Majesty's Government would consider it null and void, and he assured me that orders would be at once given for the formal denial, of the reports above alluded to, in the semi-official newspapers of that evening. || I have, etc.

H. G. Macdonell.

P. S. — Since writing the above I have received a despatch from the Senior Naval Officer at Gibraltar stating that the frigates have been given over to the Spanish Delegate, who had this morning handed them over to Admiral Lobo.

H. G. M.

Englisch-französischer Handelsvertrag.

Nr. 5247.

GROSSBRITANNIEN und **FRANKREICH.** — Handels- und Schifffahrts-Vertrag vom 23. Juli 1873.

Nr. 5247. Gross-britannien und Frankreich. 23. Juli 1873.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the President of the French Republic, being equally animated with the desire to draw closer the ties of friendship which unite the two countries, and of placing on a satisfactory footing the commercial and maritime relations between the two States, have, with this object, determined to conclude a Treaty of Commerce and Navigation, and they have accordingly appointed their respective Plenipotentiaries, that is to say: — — — Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following Articles: —

Article I. The Treaty of Commerce concluded on the 23rd January, 1860, between the United Kingdom of Great Britain and Ireland and France, as also the Supplementary Conventions of the 12th of October and 16th of November of the same year, are again put in force in all their stipulations and in their full tenour, and shall continue to have effect as before the Act of Denunciation of the 15th of March 1872. || The High Contracting Parties guarantee to each other reciprocally, as well in the United Kingdom as in France and Algeria, the treatment, in all respects, of the most favoured nation. || It is, therefore, understood that, in conformity with the stipulations of Article XIX of the Treaty of Commerce, concluded on the 23rd of January, 1860, and of Article V of the Supplementary Convention of the 16th of November of the same year, each of the High Contracting Parties engages to give the other, immediately and unconditionally, the benefit of every favour or immu-

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*) Der Handels- und Schifffahrts-Vertrag vom 5. November 1872 (S. Staats-Archiv Bd. XXII. Nr. 4735) wurde am 5. Februar 1873 der französischen Nationalversammlung zur Genehmigung vorgelegt, nachdem die in Art. 21 desselben vorgesehene gemischte Commission einen rectificirten Tarif ausgearbeitet hatte, der durch eine ergänzende Declaration vom 29. Januar 1873 beiderseits genehmigt worden war. Bald stellte sich aber heraus, dass die französischer Seits beabsichtigte und durch diesen Vertrag eingeleitete allgemeine Tariferhöhung an dem Widerstand anderer Vertragsstaaten, namentlich Oesterreichs, doch scheitern müsse; auch erfolgte inzwischen der Sturz der Thiers'schen Regierung, und so schloss das neue Ministerium Broglie unter Rückkehr zur Handelspolitik des Kaiserreichs den hier mitgetheilten neuen Vertrag ab. Derselbe wurde schon am folgenden Tage, den 24. Juli, zugleich mit einem übereinstimmenden Vertrage mit Belgien der Nationalversammlung zur Genehmigung vorgelegt. Diese erfolgte am 29. Juli, der Austausch der Ratificationen am 4. August 1873. A. d. Red.

nity, every privilege or reduction of Tariff in regard to the importation of merchandize, whether mentioned or not in the Treaty and Conventions of 1860, which have been or may be conceded by one of the High Contracting Parties to any foreign nation whatsoever, whether within or beyond Europe. || It is likewise understood that, in all that relates to transit, warehousing, exportation, re-exportation, local dues, brokerage, Customs formalities, samples, designs for manufactures, and likewise in all matters relating to the exercise of commerce and industry, British subjects in France or in Algeria, and French in the United Kingdom, shall enjoy the treatment of the most favoured nation.

Article II. British ships and their cargoes shall, in France and in Algeria, and French ships and their cargoes shall, in the United Kingdom of Great Britain and Ireland, from whatever place arriving, and whatever may be the place of origin or destination of their cargoes, be treated in every respect as national ships, and their cargoes. || The coasting trade, however, is excepted from the preceding stipulation, and remains subject to the respective laws of the two countries

Article III. The High Contracting Parties agree to settle by means of a Supplementary Convention, the ratifications of which shall be exchanged before the 31st of January, 1874, such arrangements as may appear to them to be necessary in regard to Consular attributions, to transit and Customs regulations affecting entry of goods, expertise, samples, and any other matters of the like nature, and they agree, moreover, to substitute this Supplementary Convention for the stipulations about similar matters comprised in the Treaties and Conventions of 1860.

Article IV. Mineral oils of British origin shall be admitted into France and Algeria from the 1st of January, 1874, or sooner, if possible, at a Customs duty of 5 per cent., that is to say, at the rate of duty levied previously to the passing of the Law of the 8th of July, 1871. It is, nevertheless, agreed that the said oils shall, in conformity with the stipulations of Article IX of the Treaty of the 23rd of January, 1860, again put into force by Article I of the present Treaty, be likewise subject to the duty of 5 fr. or 8 fr. per 100 kilog., established on crude or refined oils by the Law of the 16th of September, 1871, or that which may be hereafter levied on the like oils manufactured in France. || A Commission, consisting of one member on the part of each Government, shall meet at Paris immediately after the ratification of the present Treaty, in order to settle, as hereinafter directed, questions concerning duties levied in France on British mineral oils, as well as to consider and report on any other questions which the High Contracting Parties agree, or shall agree to refer to it. || The benefit of the above provisions shall be extended to British mineral oils, to be supplied to persons in France under contracts entered into before the promulgation of the Law of the 8th of July, 1871. || The Commission shall examine how far it would be possible to effect reimbursement of duties levied in excess of the duty of 5 per cent., and the

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tax of 5 fr. or 8 fr. per 100 kilog. above referred to, in the case of British mineral oils introduced into France since the promulgation of the Law of the 8th of July, 1871, otherwise than in pursuance of contracts previously entered into. || In regard to the contracts above referred to, the settlement shall include indemnification for actions for breaches of contracts entered into before the enforcement of the Law of the 8th of July, 1871. || The High Contracting Parties, before the exchange of the ratifications of the present Treaty, shall name some third person to act as Arbitrator in regard to any points in connection with the questions above referred to which relate to mineral oils and on which the Commissioners may themselves differ in opinion. The Commission shall refer any such points to the Arbitrator, whose decision shall be binding on the Commissioners, and shall be reported by them accordingly. || The High Contracting Parties shall forthwith carry out the decision come to by the Commission or by the Arbitrator.

Article V. The present Treaty shall remain in force until the 30th of June, 1877. In case neither of the two High Contracting Parties should have notified twelve months before the said date the intention of putting an end to it, it shall remain binding until the expiration of one year from the day on which either of the two High Contracting Parties shall have denounced it.

Article VI. The President of the French Republic engages to apply to the National Assembly for the necessary authorization to ratify and give effect to the present Treaty immediately after its signature. || The ratifications shall be exchanged at Paris as soon as possible, and the Treaty shall immediately come into force.

In witness whereof the respective Plenipotentiaries have signed the present Treaty, and have thereto affixed the seals of their arms. || Done in duplicate at Versailles, the 23rd day of July, in the year of our Lord 1873.

(L. S.) Lyons.
(L. S.) Broglie.

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